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**LANDLORD AND TENANT BOARD -
ORDER-IN-COUNCIL APPOINTMENT OF
EMILY ROBB***

Prepared for:

Standing Committee on Government Agencies

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INTRODUCTION

This background document was prepared for Members participating in the Committee's review of the Order-in-Council appointment of Emily Robb as a full-time Member of the Landlord and Tenant Board (Social Justice Tribunals Ontario). It first provides an overview of the Board, including its structure, followed by a review of statistics, recent operational highlights, COVID-19-related developments, and media coverage. It concludes with a brief biography of the witness and a discussion of possible lines of questioning.

THE LANDLORD AND TENANT BOARD

Enabling Statute	Responsible Ministry								
Residential Tenancies Act, 2006	Attorney General								
Agency type	Most Recent Annual Report								
Adjudicative	2020-2021								
Activities of the Agency									
The Board has exclusive jurisdiction to determine applications under the Act regarding residential tenancies.									
Board Membership									
Statutory Number of Members: None prescribed Number Appointed by Cabinet: All Term of Office: Not prescribed	<table> <tr> <th>Position</th><th>Remuneration</th></tr> <tr> <td>A/Vice-Chair (part-time):</td><td>\$744 per diem</td></tr> <tr> <td>Vice-Chair (part-time):</td><td>\$583 per diem</td></tr> <tr> <td>Members (part-time):</td><td>\$472 per diem¹</td></tr> </table>	Position	Remuneration	A/Vice-Chair (part-time):	\$744 per diem	Vice-Chair (part-time):	\$583 per diem	Members (part-time):	\$472 per diem ¹
Position	Remuneration								
A/Vice-Chair (part-time):	\$744 per diem								
Vice-Chair (part-time):	\$583 per diem								
Members (part-time):	\$472 per diem ¹								
Position Requirements									
Prospective members go through a merit-based selection process that includes an assessment of experience, knowledge or training in the subject matter and legal issues dealt with by the Board; aptitude for impartial adjudication; and aptitude for applying alternative adjudicative practices and procedures that may be set out in the Board's rules. ²									

Overview

The Landlord and Tenant Board (LTB) is an independent, quasi-judicial adjudicative agency, established under the *Residential Tenancies Act, 2006* (RTA). In 2007, the Board replaced the Ontario Rental Housing Tribunal, which had operated under the former *Tenant Protection Act, 1997*.

The LTB resolves applications related to residential tenancy disputes between landlords and tenants and eviction disputes in non-profit housing co-operatives.

¹ Ontario, Agencies and Appointments Directive, see [Schedule B](#): remuneration of appointees to adjudicative tribunals and regulatory agencies.

² [Adjudicative Tribunals Accountability, Governance and Appointments Act, 2009](#), S.O. 2009, c. 33, Sched. 5, s. 14; Tribunals Ontario, [Member Position Description](#).

The LTB is also mandated to provide information to landlords and tenants about their rights and responsibilities under the RTA.

Structure of the Board

The LTB is designated as part of an adjudicative tribunal cluster by regulation made under the *Adjudicative Tribunals Accountability, Governance and Appointments Act, 2009*.³

All members of the Board are appointed by the Lieutenant Governor in Council (Cabinet). Public servants may be appointed to the Board. The Act is silent as to the Board's size and the length of its members' term of office.

Currently, the Board consists of

- one full-time Executive Chair;
- one Alternate Executive Chair;
- one full-time Associate Chair; (plus one vacancy which is currently being advertised.)
 - In addition to this vacancy, Executive Chair of Tribunals Ontario issued a leadership announcement on November 17, 2021 indicating that current Associate Chair Karen Restoule had recently resigned after being re-appointed in October 2021 as the Associate Chair for a five-year term.⁴
- eight full-time Vice-Chairs;
- five part-time Vice-Chairs (plus one vacancy);
- 32 full-time Members (plus one forthcoming vacancy due to resignation); and
- 41 part-time Members (plus two vacancies and one forthcoming vacancy due to resignation).⁵

The witness is seeking appointment as a full-time Member.

³ In 2011 the Landlord and Tenant Board was designated as one of the seven tribunals that make up Social Justice Tribunals Ontario (SJTO). The other SJTO tribunals are the Child and Family Services Review Board, the Custody Review Board, the Human Rights Tribunal of Ontario, the Ontario Special Education Tribunal (English), the Ontario Special Education Tribunal (French), and the Social Benefits Tribunal. The SJTO was formed under the *Adjudicative Tribunals Accountability, Governance and Appointments Act, 2009*, which authorizes Cabinet to designate two or more adjudicative tribunals as a cluster if Cabinet is of the opinion that the matters the tribunals deal with "are such that they can operate more effectively and efficiently as part of a cluster than alone."

⁴ Tribunals Ontario, [Leadership Announcement](#), November 17, 2021.

⁵ Ontario, Public Appointments Secretariat, [Landlord and Tenant Board \(Tribunals Ontario\)](#).

Statistics

In the years immediately preceding the enactment of measures related to the COVID-19 pandemic, the Board generally received over 80,000 applications annually. It conducts hearings around the province on a range of matters. In 2020-2021, the Board received 48,422 applications, a decrease of approximately 40% (32,542 fewer applications) compared to 2019-10. This may of course be related to the various suspension orders issued on residential evictions during the COVID-10 pandemic as discussed below. Of the number of received applications in 2020-2021, 35,983 (74%) were resolved. Of those, 40% of applications were resolved at hearing, 14% at mediation, and 30% were withdrawn.⁶

Consistent with a trend that began in 1998, when landlord-tenant disputes were transferred from the provincial courts to the Board, the bulk (approximately 59%) of all applications in 2020-2021 were filed by landlords seeking termination of tenancy and eviction orders for non-payment of rent. While the number of applications for termination of tenancy for non-payment of rent remains high, the volume of such applications has declined over the past three years, including significantly this past year. Applications for termination and eviction for other reasons have slightly increased over the preceding three years; however, they also of course decreased significantly in 2020-2021.

The ratio of landlord to tenant applications to the Board has also remained relatively constant since the 1998 changes, with 86% of applications filed by landlords and 14% filed by tenants. In 2020-2021, most applications filed by tenants were on grounds of tenant rights (46.5%) and maintenance (26.5%).

The LTB's standard is to schedule a first hearing for the most common rent disputes within 25 business days of an application. While the board met that standard in 54% of cases in the 2017-18 fiscal year, that fell to 35% in 2018-19, and fell further to just 15% in 2019-20 according to the most recent annual report for Tribunals Ontario. In 2020-2021, this fell drastically to 1% while hearings were suspended due to COVID-19, and during the transition period before a videoconferencing model was established.⁷

Recent Operational Highlights

In March 2020, Tribunals Ontario accelerated its digital first strategy in response to the pandemic. Parties have been able to access hearings by video and phone, communication by email, online fee payment, electronic filing of applications and online forms.⁸

⁶ Tribunals Ontario, [Tribunals Ontario 2020-21 Annual Report](#).

⁷ Ibid.

⁸ Tribunals Ontario, [Tribunals Ontario Launches "Navigate Tribunals Ontario", Expands Digital Services to Improve Access to Justice](#), July 2, 2021; Tribunals Ontario, Latest News, [Landlord and Tenant Board Implementing Enhanced Scheduling](#), May 14, 2021; Tribunals Ontario, [Landlord & Tenant Board](#).

In March 2021, the Ministry of the Attorney General announced its investment in the Navigate Tribunals Ontario and Tribunals Ontario Portal as part of its [Justice Accelerated Strategy](#).⁹

Navigate Tribunals Ontario

The [Navigate Tribunals Ontario System](#) was launched on July 2, 2021. It is described as “an online tool that will empower users with tailored information about their rights and responsibilities and the rules and processes at the LTB.”¹⁰ It includes features such as:

- A series of questions to guide users along pathways tailored to their situation.
- Info-sheets and summary reports, which include next steps and links to relevant resources, which can be printed, emailed or downloaded at any time.
- A unique access code to give users the option to exit the navigation and come back later to pick up where they left off.
- No requirement to log in or provide personal details.¹¹

New Digital Case-Management System – Tribunals Ontario Portal

The Tribunals Ontario Portal will be a new digital case-management system for Ontario’s 14 adjudicative tribunals. In addition to filing documents online, the system will facilitate virtual dispute resolution similar to British Columbia’s online adjudicative tribunal system. The Attorney General indicated that the new system would be in place at the Landlord Tenant Board (as well as the Human Rights Tribunal) “by the end of the summer [2021].”¹²

As of September 1, 2021, the LTB announced that it had updated its Rules, guidelines, forms and brochures, and posted new and revised materials to its website. It indicated that the new forms would be included in the Tribunals Ontario Portal “when it launches later this fall.”¹³

As of the writing of this report on December 1, 2021, it appears that the Tribunals Ontario Portal has not yet been launched.

Expanded Access Terminals

Access terminals for parties who do not have access to a telephone, computer, and/or the internet opened at the Toronto hearing centre on February 1, 2021. On June 21, 2021, the LTB expanded access terminals to three more hearing centres in Hamilton, London, and Ottawa. Parties who have received a Notice of

⁹ Tribunals Ontario, [Tribunals Ontario Launches “Navigate Tribunals Ontario”, Expands Digital Services to Improve Access to Justice](#), July 2, 2021.

¹⁰ Ibid.

¹¹ Ibid.

¹² Paolo Loriggio, “[New online system aims to combat delays and case backlogs in Ontario tribunals](#),” *City News*, March 11, 2021.

¹³ Tribunals Ontario, Latest News, [Residential Tenancies Act, 2006 Amendments Take Effect Today – New and Updated Landlord and Tenant Board Rules, Guidelines and Forms Now Available Online](#), September 1, 2021.

Hearing can contact the LTB to make a request for access to the terminals at any of these hearing centres. The LTB evaluates each request on a case-by-case basis and responds to the parties with its decision to grant or deny the request. If the request is granted, the parties using the terminal will participate in their hearing electronically.¹⁴

Adjudicator Recruitment Efforts

To support timely and responsive service, the LTB focused on building up its adjudicator complement over the past two years. It now has more adjudicators than ever before.¹⁵

COVID-19-Related Developments

Suspension of Limitation Periods due to COVID-19 Pandemic

On March 20, 2020, the Government of Ontario made an emergency order under the *Emergency Management and Civil Protection Act*, suspending limitation periods and procedural time periods relevant to tribunal proceedings. This meant that timelines stopped running and deadlines for filing applications and taking various procedural steps were paused. The suspension was retroactive to March 16, 2020. Suspended limitation periods and procedural timelines resumed on September 14, 2020.¹⁶

Suspension of Residential Evictions due to COVID-19 Pandemic

On March 19, 2020, the Ontario Superior Court issued an order suspending residential evictions. At that time, the LTB suspended hearings related to eviction applications unless the matter related to an urgent issue such as an illegal act or a serious impairment of safety. On August 1, 2020, the LTB resumed hearing all types of applications, including those related to evictions.¹⁷

When eviction hearings resumed in August 2020, the LTB implemented a videoconference hearing model, amended its processes and established the necessary infrastructure to continue hearings virtually.

The enforcement of eviction orders was paused in Ontario when the provincial government introduced a stay-at-home order on January 14, 2021, to slow the spread of COVID-19.¹⁸ Enforcement of eviction orders began resuming on February 10, 2021, in regions where the stay-at-home order was lifted.¹⁹

¹⁴ Tribunals Ontario, Latest News, [Tribunals Ontario Expanding Access Terminals to Hamilton, London, and Ottawa Hearing Centres](#), June 21, 2021.

¹⁵ Tribunals Ontario, [Tribunals Ontario 2020-21 Annual Report](#).

¹⁶ Tribunals Ontario, [COVID-19 Updates on Tribunals Ontario Operations](#), last updated March 10, 2021.

¹⁷ Landlord and Tenant Board, [Operational Updates](#), last updated on March 10, 2021.

¹⁸ Ministry of Municipal Affairs and Housing, [“Ontario Temporarily Pauses Residential Evictions,” News Release](#), January 14, 2021.

¹⁹ Officer of the Premier, [“Ontario Extending Stay-at-Home Order across Most of the Province to Save Lives,” News Release](#), February 8, 2021.

Recent news reports speculate there will be a “wave of evictions” in Ontario as a result of the COVID-19 pandemic, particularly following the suspension of residential evictions. In response, the Ontario Bar Association launched a new pro bono legal service in February 2021 to help tenants at risk of being evicted.²⁰

On February 16, 2021, Bill 244, the *No COVID-19 Evictions Act, 2021* was introduced.²¹ It would have extended the temporary ban on evictions until one year after the pandemic is declared over by the chief medical officer of health.²² It lost a vote in the legislature at the Second Reading stage on February 17, 2021.

On April 8, 2021, the moratorium on enforcement of evictions was again reinstated by a provincial stay-at-home order. The moratorium ended when the stay-at-home order was lifted on June 2, 2021.²³ The LTB continued to hear evictions cases during the moratorium, as only enforcement was paused. Advocates again called for an extension of the moratorium to no avail, citing fears for the health and safety of tenants.²⁴

Rent Freeze at 2020 Levels

The Government of Ontario has passed legislation to freeze rent at 2020 levels until December 31, 2021. This means that rents will not increase in 2021 for the vast majority of rental units covered under the *Residential Tenancies Act, 2006*, subject to exceptions.²⁵

On October 19, 2021, Bill 23, the *Rent Stabilization Act, 2021*, was introduced.²⁶ It would have set new rules preventing rent from being increased for a new tenant beyond what the previous tenant had been paying, and established a rent registry accessible to prospective tenants.²⁷ It lost a vote in the legislature at the Second Reading stage on November 29, 2021.

Additional Media Coverage

Ontario Ombudsman Investigation re: Delays

Tribunals Ontario was the organization which received the most complaints in 2020-2021. The Ontario Ombudsman recently noted that for the second year in a

²⁰ Nick Boisvert, “[Ontario lawyers to offer free legal advice for tenants as 'wave of evictions' looms](#),” *CBC News*, February 20, 2021.

²¹ Legislative Assembly of Ontario, Bill 244, the *No COVID-19 Evictions Act, 2021*.

²² News Staff, “[Ford government votes against year-long ban on residential evictions](#),” *City News*, February 17, 2021.

²³ *O. Reg. 266/21* (Residential Evictions); Ontario, Solicitor General, “[Ontario Maintains COVID-19 Restrictions as Stay-at-Home Order is Set to Expire](#),” *News Release*, June 1, 2021.

²⁴ The Canadian Press, “[Ontario's eviction ban lifts with stay-at-home order, advocates call for extension](#),” *CTV News*, June 2, 2021.

²⁵ Landlord and Tenant Board, *Operational Updates*, last updated on March 10, 2021.

²⁶ Legislative Assembly of Ontario, Bill 23, the *Rent Stabilization Act, 2021*.

²⁷ Andrew Graham, “[Ontario NDP bill proposes capping rent increases between tenants](#),” *Global News*, October 19, 2021.

row, the LTB was the source of the bulk of complaints in respect of Tribunals Ontario.²⁸

On January 9, 2020, the Ontario Ombudsman announced an investigation into delays for hearings and decisions at the LTB.²⁹ The Ombudsman noted that “the investigation will focus on whether the government is taking adequate steps to address the delays and backlogged cases.”³⁰ Although the terms of some adjudicators were recently extended and a few more have been recruited, the investigation also looked into other potential systemic factors that may be contributing to the problem, such as relevant legislation, training, funding and technology.³¹

The Ombudsman’s investigation is ongoing, and the office has received 1200 complaints related to same. Delays continue to be an issue since the time the Ombudsman’s investigation was announced and have been further influenced by the ensuing pandemic.³² The Tribunal’s transition to virtual hearings prompted an influx of new complaints from people frustrated with the virtual hearing process, access issues and delays.³³

The Ombudsman noted in its 2020-2021 Annual Report that the LTB has been responsive to its ongoing investigation. For instance, the Ombudsman found that although the LTB introduced a process to allow some urgent eviction cases to proceed between January and July 2020, that this was not clearly communicated to the public. In response to this remark, the LTB published more information about this process on its website. The LTB also made changes to address delays and backlogs since the start of the investigation. For instance, it hired several new adjudicators, including some who can conduct hearings in French as well as English, an issue raised by the Ombudsman’s French Language Services Unit.³⁴

Changes to the RTA

Various amendments to the [Residential Tenancies Act, 2006](#) (RTA) resulting from Bill 184, the [Protecting Tenants and Strengthening Community Housing Act, 2020](#), came into force on September 1, 2021.³⁵ Bill 184 garnered criticism from various parties and was the subject of several protests.³⁶

²⁸ Ombudsman Ontario, [Annual Report 2020/2021](#), June 29, 2021, p. 22.

²⁹ Mike Crawley, “[Delays at Ontario Landlord and Tenant Board prompt ombudsman investigation](#),” *CBC News*, January 9, 2020.

³⁰ Ombudsman Ontario, “[Ontario Ombudsman to Investigate Delays at Landlord and Tenant Board](#),” January 9, 2020.

³¹ Tribunals Ontario, [Tribunals Ontario 2019-20 Annual Report](#), p. 50.

³² Sue-Ann Levy, “[LEVY: No recourse when tenants use COVID as excuse not to pay rent](#),” *Toronto Sun*, February 21, 2021; Frazer Snowdon, “[Ontario landlords struggle as major delays continue to plague LTB hearings](#),” *Global News*, January 29, 2021.

³³ Ombudsman Ontario, [Annual Report 2020/2021](#) p. 63.

³⁴ *Ibid.*

³⁵ Tribunals Ontario, Landlord and Tenant Board, [Backgrounder: September 1, 2021 Amendments to the Residential Tenancies Act](#)

³⁶ *CBC News*, “[Hundreds protest Ontario bill they say gives landlords more ways to evict tenants](#),” July 6, 2020; Katerina Georgieva, “[The province says Bill 184 protects both](#)

The LTB conducted consultations on changes and additions to its forms and instructions, interpretation guidelines and Rules of Procedure in preparation for the above-noted amendments to the RTA, and published its findings and plans in a document entitled [What We Heard](#) on July 26, 2021.

Some of the changes introduced by the amendments include:

- Tenants can now claim compensation equal to 12 months' rent if their landlord issued an eviction notice in bad faith or the landlord does not allow them to move back in after renovations or repairs.
- Landlords can apply to the LTB to claim compensation for unpaid rent, unpaid utilities, or damages to the rental unit for up to one year after the tenant has moved out.
- Landlords can apply to the LTB to claim out-of-pocket expenses incurred because of the tenant or former tenant's "substantial interference with the reasonable enjoyment of the residential complex or with another lawful right, privilege or interest of the landlord."
- Landlords who are filing an eviction application because the landlord, a purchaser or a family member requires the rental unit, or because they want to demolish the rental unit, repair it or convert it to another use, must disclose all previous notices (N12 or N13) given to any tenant for these purposes in the last two years for any rental unit.³⁷

THE WITNESS

According to the Office of the Premier, the Witness, of Oshawa, is currently an associate paralegal for Anderson Begg Legal Services Professional Corporation. Ms. Robb was formerly a Paralegal for Durham Community Legal Clinic.

POSSIBLE QUESTIONS

What has motivated the witness to seek this position?

In the witness' view, what are the main issues facing the Board today?

Could the witness describe previous experiences that might be of assistance for undertaking this position?

What particular contribution does the witness hope to make to the Board?

[landlords and tenants. Here's why both sides hate it](#)," CBC News, July 11, 2021; *Financial Post*, "[Landlords, tenants at odds over contentious Bill 184 as Ontario's eviction moratorium ends](#)", August 5, 2020; Ali Raza, "[Crescent Town tenants facing 'eviction crisis' due to combination of pandemic and Ontario government's Bill 184](#)", *Beach Metro Community News*, December 15, 2020.

³⁷ Tribunals Ontario, Latest News, [Residential Tenancies Act, 2006 Amendments Take Effect Today – New and Updated Landlord and Tenant Board Rules, Guidelines and Forms Now Available Online](#), September 1, 2021; Tribunals Ontario, Operational Updates, [September 1 Amendments to the Residential Tenancies Act](#).

In the witness's opinion, what is required to succeed in this position in the face of challenges created by COVID-19?