

Ontario Labour Relations Board



The Ontario Labour Relations Board (OLRB) is an independent, quasi-judicial tribunal which mediates and adjudicates a variety of employment and labour relations related matters under various Ontario statutes.

Annual Report

2017-2018

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Chair's Message

In last year's Chair's message, I wrote that we at the Ontario Labour Relations Board were living in interesting times. In hindsight, it may be argued that I considerably understated that notion. This past year saw the enactment of the *Fair Workplaces, Better Jobs Act, 2017* (Bill 148). Since its effective date on January 1, 2018, in the last third of this fiscal period alone, the Board has received over 40 applications under the Bill that did not even exist previously. The Board also received the first applications for review of Notices of Contravention issued by the Ontario College of Trades. Although appeals from orders made under the many changes to the *Employment Standards Act* ("ESA") have not yet reached the Board during this fiscal period, the number of ESA appeals just between January 1 and the end of the fiscal period almost doubled over the same period last year.

It has been a very busy year for the Board, as the data, charts and appendices in this Annual Report clearly demonstrate. There was an increase of more than 230 applications received over the previous year (almost 7%) - reflecting increases in all major categories. The increases ranged from marginal increases in certification applications (although arguably understated by virtue of no "open period" during this fiscal period) and unfair labour practice complaints (about 4%) to more significant (construction industry grievances - almost 6%) and very significant (employment standards appeals - almost 15%). Arguably more significantly, there were 16 List of Employees applications and 25 Specified Industry applications, and an increase in the number of interim orders since January 1, 2018 under new provisions of the Act where the Board is developing new jurisprudence from scratch. Those types of applications continue to grow at an increasing rate.

Importantly (due to the overlapping of cases filed in previous years but still outstanding in the last year), the Board disposed of 4682 cases in the last fiscal period - almost 350 more than last year and that was the most in the last five years. Even more importantly, the Board amazingly continues to dispose of 87.9% of its cases without a final hearing. The nuances and breakdown of these global numbers can be ascertained in the tables and statistics that follow in this report.

As well, the Board is now "up and running" with its e-filing system which allows all kinds of applications (other than certification and termination applications which require original membership evidence) and all kinds of documents to be filed electronically. The rate at which parties avail themselves of these procedures continues to increase.

Very significantly, the Board successfully conducted its first electronic vote in the last fiscal period. This allows large groups of employees in disparate geographic locations to vote easily online or by telephone and have the results of those votes tabulated quickly - far more quickly and efficiently than conventionally dispatching returning officers to traditional polling stations in remote locations open for only limited periods of time. For example, in the final offer vote involving faculty at Ontario's Colleges, where the Board ordered its first electronic vote (over some objections of the parties), almost 13,000 employees all over the province voted in approximately a 48 hour period with the results released within a half hour of the vote closing. The Board anticipates resorting to electronic votes where the circumstances warrant on a more regular basis in the future.

In the past year, the Board has said farewell to Voy Stelmaszynski, one of our longest serving and highly respected Board Solicitors, who (at least from our point of view) sadly retired. We also sadly said goodbye to Christopher Albertyn and Bram Herlich who commendably served as part-time Vice-Chairs and to long-serving side members Judith Rundle and Alan Haward.

Although all of them leave big shoes to fill, the Board continues its search for astute and able adjudicators and welcomed David Ross as a full-time Vice Chair and Elizabeth McIntyre as a part-time Vice Chair, highly regarded former labour law practitioners. Michael Mitchell who we were fortunate enough to have join the Board on a part-time basis in the previous years, has now, much to our good fortune, become a full-time Vice-Chair. We also welcomed Margaret Taylor as a member and Aaron Hart as Board Solicitor.

After a long and outstanding career at the Board, Brian McLean decided to resign as Alternate Chair (his second turn in this not attention getting but very important role) and his appointment was converted from full-time to part-time. We are grateful not only for his exemplary service, but also for the time he still devotes to the Board even in that reduced capacity. Matthew Wilson was designated Alternate Chair following Brian McLean's tenure. Not surprisingly (and certainly to anyone who knows him), Matt has been outstanding in his new role.

More than ever, as I have come to increasingly appreciate over the years, none of this is possible without the efforts of the expert and dedicated staff of the Board – knowledgeable and discerning adjudicators, talented and effective mediators, committed and agile administrators and a hardworking and enthusiastic support staff. Not only do I owe them all a huge debt of gratitude but it is because of them the Board continues to enjoy its reputation as the country's largest and preeminent labour and employment tribunal. We all continue to work diligently to make the Board even better at what it does, and as I have said at the close of each of these Chair's messages, in each of these annual reports, I encourage everyone to contact the Board (and me) with their comments, concerns or suggestions. I cannot promise that we will agree, but we will certainly listen.



A handwritten signature in black ink, appearing to be 'P. H. H.', written in a cursive style.

Organizational Overview

The Ontario Labour Relations Board is an adjudicative agency of the Government of Ontario. As a tribunal operating at arm's length from the Ministry of Labour, the OLRB mediates and decides cases under more than 20 different workplace and employment-related laws. In addition to the primary responsibility that comes from its founding statute, the *Labour Relations Act, 1995*, a significant portion of the Board's work falls under the *Employment Standards Act, 2000* and the *Occupational Health and Safety Act*, as is described in more detail below.

Overall, the Board has varying degrees of jurisdiction assigned to it under the following statutes:

- *Ambulance Services Collective Bargaining Act, 2001*, S.O. 2001, c.10
- *Colleges Collective Bargaining Act, 2008* S.O. 1990. c.5
- *Crown Employees Collective Bargaining Act, 1993*, S.O. 1993, c.38
- *Education Act*, R.S.O. 1990, c.E.2
- *Employment Protection for Foreign Nationals Act, 2009*, S.O. 2009, c.32
- *Employment Standards Act, 2000*, S.O. 2000, c.41
- *Environmental Bill of Rights, 1993*, S.O. 1993, c.28
- *Environmental Protection Act*, R.S.O. 1990, c.E.19, which gives the Board jurisdiction under the following legislation:
 - *Environmental Assessment Act*, R.S.O. 1990, c.E.18
 - *Environmental Protection Act*, R.S.O. 1990, c.E.19
 - *Fisheries Act*, R.S.C. 1985, c.F-14
 - *Nutrient Management Act, 2002*, S.O. 2002, c. 4
 - *Ontario Water Resources Act*, R.S.O. 1990, c.O.40
 - *Pesticides Act*, R.S.O. 1990, c.P.11
 - *Safe Drinking Water Act, 2002*, S.O. 2002, c.32
 - *Toxics Reduction Act, 2009*, S.O. 2009, c.19
- *Fire Protection and Prevention Act, 1997*, S.O. 1997, c.4
- *Hospital Labour Disputes Arbitration Act*, R.S.O. 1990, c.H.14
- *Labour Relations Act, 1995*, S.O. 1995, c.1
- *Local Health System Integration Act, 2006*, S.O. 2006, c.4
- *Long Term Care Homes Act, 2007*, S.O. 2007, c.8
- *Occupational Health and Safety Act*, R.S.O. 1990, c.O.1
- *Ontario College of Trades and Apprenticeship Act, 2009*, S.O. 2009, c. 22
- *Ontario Provincial Police Collective Bargaining Act, 2006*, S.O. 2006, c.35, Sch. B
- *Protecting Child Performers Act, 2015*, S.O. 2015, c.2
- *Public Inquiries Act, 2009*, S.O. 2009, c. 33, Sch. 6
- *Public Sector Dispute Resolution Act, 1997*, S.O. 1997, c.21, Schedule A
- *Public Sector Labour Relations Transition Act, 1997*, S.O. 1997, c. 21, Schedule B
- *Public Service of Ontario Act, 2006*, S.O. 2006, c.35, Schedule A
- *Retirement Homes Act, 2010*, S.O. 2010, c.11
- *School Boards Collective Bargaining Act, 2014*, S.O. 2014, c.5
- *Smoke-Free Ontario Act*, S.O. 1994, c.10

The Board

The Board is an independent adjudicative tribunal with a mandate to mediate and adjudicate a broad variety of workplace disputes. Its staff are appointed under the *Public Service of Ontario Act, 2006*. Direction for its mission, mandate, service standards, governance and accountability are set out in the *Adjudicative Tribunal Accountability, Governance and Appointments Act, 2009*.

The Board is composed of a Chair, an Alternate Chair, Vice-Chairs, Board Members, a complement of Mediators, a Solicitors' Office and a Registrar's office. These individuals, aided by the Board's support staff, draw upon specialized expertise in the labour and employment field to settle and adjudicate cases before them. The Board strives to keep its procedures informal, expeditious and fair. However, it is important to recognize that legal rights are at issue, the statutory frameworks are sometimes complex, and parties are encouraged to seek independent legal advice, if not legal representation, to assist them in Board proceedings.

The Board is entitled to determine its own practices and procedures, and has the authority to make rules and forms governing its practices and the conduct of those appearing before it. The Board's Rules, Forms and Information Bulletins are available on its website at www.olrb.gov.on.ca or from the Board's offices at 505 University Avenue, 2nd Floor, Toronto, Ontario, M5G 2P1.

The Board plays a fundamental role in the labour relations, employment standards, and health and safety regimes in Ontario. Board decisions are based on the evidence presented and submissions received, and on the adjudicator's interpretation of the facts in dispute, relevant legislation and jurisprudence. In keeping with the Ministry of Labour's overarching principles, the Board encourages harmonious relations among employers, employees and trade unions. It deals as expeditiously and fairly as reasonably possible in processing, settling or adjudicating all matters that come before it.

Board Processes

Essentially, every application that is filed with the Board is first assigned to a Mediator. The Mediator is given an opportunity to contact or meet with the parties to explore the possibility of settlement. Parties are encouraged to mediate matters. Practically speaking, mediation is a less formal and often less costly process than a hearing. The settlement of a workplace dispute, worked out by the parties with the assistance of a mediator, gives the parties an agreement they can both live with and more responsibility and ownership of the agreed-to conditions. Roughly 90% of all disputes coming before the Board were resolved, including by mediation, prior to litigating the matter at a final hearing.

If an application cannot be mediated successfully, the matter is forwarded to the Registrar to schedule a consultation or hearing. A consultation is a less formal type of adjudication, and may take on different forms. Primarily, it is a quick and pointed hearing with the parties, with the Vice-Chair (adjudicator) taking greater control over how the proceeding is conducted. Often, there is no need for sworn testimony. The Vice-Chair may ask questions of the parties, or may direct that the questioning be limited in scope.

A hearing is a formal adjudication, with opening statements, the examination and cross-examination of witnesses, presentation of relevant documentary evidence, and submission of final arguments.

Consultations and hearings (but not mediations) are open to the public unless the Vice-Chair or panel decides that a public airing of the dispute could be damaging to one of the parties. Hearings are not recorded and no transcripts are produced. The Board issues written decisions that are sent to the parties, and become public documents available for searching on public databases.

The Board's Principal Statutes

Labour Relations Act, 1995

The Ontario Labour Relations Board was established by section 2 of the *Labour Relations Act, 1948* and is continued by subsection 110(1) of the current *Labour Relations Act, 1995*.

The Board's work under the LRA is guided by the legislative policy set out in section 2 of the Act:

2. The following are the purposes of the Act:

1. To facilitate collective bargaining between employers and trade unions that are the freely designated representatives of the employees.
2. To recognize the importance of workplace parties adapting to change.
3. To promote flexibility, productivity and employee involvement in the workplace.
4. To encourage communication between employers and employees in the workplace.
5. To recognize the importance of economic growth as the foundation for mutually beneficial relations amongst employers, employees and trade unions.
6. To encourage cooperative participation of employers and trade unions in resolving workplace disputes.
7. To promote the expeditious resolution of workplace disputes.

With this policy as a basis, the Act confers on the Board the authority over many significant aspects of labour relations including the certification of unions to represent employees, termination of bargaining rights, the handling of unfair labour practices (including a union's duty of fair representation or fair referral of its members), successor bargaining rights, essential services, strikes, lock-outs, first contract direction, jurisdictional disputes and a range of issues arising in the construction industry, including the arbitration of grievances.

Employment Standards Act, 2000

The ESA confers authority on the Board to hear applications for review of decisions made by Employment Standards Officers. Claims filed under the ESA with the Ministry of Labour (for wages, overtime, termination or severance pay, other violations of the Act) are investigated by Employment Standards Officers who direct payment of outstanding monies, issue orders for wages or compensation, or refuse to issue orders. Appeals of Employment Standards Officers' decisions or refusals to make orders are handled by the Board.

Mediation is attempted in all ESA matters before the Board. Where mediation is unsuccessful, the Board conducts what is in essence a fresh hearing of the workplace dispute. Parties to the dispute are expected to attend the hearing with their evidence and witnesses, and be able to persuade the Board of the correctness of their case.

Occupational Health and Safety Act

The OHSA is designed to ensure that every workplace is safe and every worker is protected against injury or harm. Enforcement of the OHSA is conducted by health and safety inspectors, who may enter workplaces to inspect or investigate working conditions, equipment and compliance with the Act. Orders or decisions of inspectors can be appealed to the OLRB.

There are also protections for workers who exercise their rights under the OHSA and are disciplined or discharged for doing so (reprisals). These applications can be brought directly to the Board or referred by a health and safety inspector.

School Boards Collective Bargaining Act, 2014

This legislation dramatically altered the structure for collective bargaining in the education sector. The parties now bargain their collective agreement on two tiers: central issues at a "central table", where the Crown is a party, and local issues at a "local table", where it is not. In the event the parties are unable to agree to this central/local split, disputes are decided by the Board upon the application of either party or the Crown, as well as any issues arising from the parties' agreement or Board order. In addition, the Board may be asked to decide whether a matter that is the subject of central bargaining may prejudicially affect constitutionally-protected, denominational or linguistic rights and

can exclude the issue from central bargaining, make it the subject of local bargaining and issue other orders as the Board determines are appropriate in the circumstances. Amendments to the Act (Bill 92) increased the Board's jurisdiction. The Crown or a party to central bargaining may now apply to the Board to decide if a local term in a collective agreement conflicts with or is inconsistent with a central term in the agreement. Other amendments adding to the Board's jurisdiction were not yet in force in 2017/2018.

Crown Employees Collective Bargaining Act

Any employer of Crown employees and the bargaining agent for Crown employees must make an essential services agreement when negotiating a collective agreement and prior to any strike or lockout being lawful. Either party may apply to the Ontario Labour Relations Board to determine any matter that is not resolved including the matters to be included in the essential services agreement and its terms. The Board may consult with the parties and/or inquire into any matter raised by the application. The Board also has jurisdiction under this Act to enforce or amend the agreement upon application, as well as to make a declaration that an agreement has prevented meaningful bargaining and to amend the number of positions or employees designated in the agreement.

Other Applications

The Board receives a smaller number of applications under the other legislation that we administer. Generally speaking, these are treated in a manner analogous to how we deal with the applications already described.

Other Tribunals

The Board also has administrative responsibility for a number of other tribunals whose reporting structures and activities may be described in other Annual Reports. The Board administers the Education Relations Commission ("ERC") which is an agency of the Ministry of Education. The Board's Chair is the Chair of the ERC and several Board Vice-Chairs sit as ERC Members. A Vice-Chair of the Board is the Presiding Officer of the Pay Equity Hearings Tribunal. Several Board Vice-Chairs and Members are also cross-appointed to the PEHT. Support services for all of these bodies are under the administration of the Director/Registrar.

Order in Council Appointments

The Board's adjudicators (the Chair, Alternate Chair, Vice-Chairs and Board Members) are all appointed by the Lieutenant Governor in Council as Order in Council appointments (OICs), for a fixed term. Following is a chart of OICs working in 2017 – 2018 and their appointment terms.

Name	First Appointed	Term of Appointment	Name	First Appointed	Term of Appointment
Chair			Members (Employer)		
Fishbein, Bernard	February 28, 2011	February 27, 2021	Bolton, Lori	March 11, 2015	March 10, 2020
Alternate Chair			Cook, William S.	March 18, 2015	March 17, 2020
McLean, Brian C.	July 8, 1998	July 7, 2017	LeChien, Robert	April 15, 2015	April 14, 2020
Wilson, Matthew	August 29, 2012	August 28, 2022	Martin, Ron	March 25, 2015	March 24, 2020
Full Time VCs			Rundle, Judith A.	July 17, 1986	July 16, 2017
Anand, Gita	January 15, 2016	January 14, 2021	St. Louis, David	February 18, 2015	February 17, 2020
Beatty, Adam	June 30, 2016	June 29, 2018	Sullens, John (Jack)	February 18, 2015	February 17, 2020
Debané, Geneviève	June 30, 2016	June 29, 2018	Taylor, Margaret	November 29, 2017	November 28, 2019
Kelly, Patrick M.	May 17, 1999	May 17, 2021	Zachar, Wayne	June 22, 2016	June 21, 2018
Lewis, John D.	March 11, 2009	March 10, 2019	Members (Employee)		
McFadden, Michael	November 5, 2014	November 4, 2019	Chudak, Edward	April 1, 2015	March 31, 2020
McGilvery, Roslyn	September 9, 2013	September 8, 2018	Collins, Thomas	April 1, 2015	March 31, 2020
McKee, David A.	April 29, 1999	June 30, 2018	Cronkright, Steven	June 22, 2016	June 21, 2018
McKellar, Mary Anne	January 24, 2001	January 23, 2022	Dagg, Alexandra Miriam	June 30, 2016	June 29, 2018
McLean, Brian C.	July 8, 1998	July 7, 2017	Dowding, John	June 22, 2016	June 21, 2018
Mitchell, C. Michael	July 22, 2015	February 27, 2021	Gairey, Jawara	October 19, 2016	October 18, 2018
Ross, David	November 15, 2017	November 14, 2019	Haward, Alan	March 25, 1998	March 24, 2017
Rowan, Caroline	May 6, 1999	May 6, 2021	MacDonald, Brian	June 22, 2016	June 21, 2018
Seveny, Yvon	May 25, 2015	May 26, 2020	Nicholls, William	May 6, 2015	May 5, 2020
Shouldice, Ronald K. (Lee)	May 30, 2007	May 29, 2022	Nielsen, Heino	June 30, 2016	June 29, 2018
Slaughter, Jack J.	February 3, 2003	February 2, 2021	Patterson, David A.	April 2, 1986	April 1, 2017
Turtle, Paula	July 22, 2015	July 21, 2020	Phillips, Carol	January 14, 2009	January 13, 2022
Waddingham, Kelly A.	April 7, 2004	December 31, 2022	Petroni, Robert	June 22, 2016	June 21, 2018
Wilson, Matthew	August 29, 2012	August 28, 2022			
Part Time VCs					
Albertyn, Christopher J.	October 7 1994	August 30, 2017			
Beresford, Harvey	October 5, 2016	October 4, 2018			
Clarke, Graham	November 2, 2016	November 1, 2018			
Gedalof, Eli	October 30, 2013	June 30, 2019			
Gee, Diane L.	August 1, 2008	July 31, 2019			
Gray, Owen V.	May 8, 2013	September 16, 2022			
Green, Maurice	May 16, 2012	July 8, 2022			
Herlich, Bram S.	May 8, 2013	September 16, 2017			
Kitchen, Robert W.	May 30, 2012	July 8, 2022			
Kuttner, Thomas	September 11, 2013	September 10, 2018			
McDermott, Edward T.	May 17 2011	May 16, 2021			
McIntyre, Elizabeth	August 31, 2017	August 30, 2019			
McLean, Brian C.	July 8, 1998	July 7, 2022			
Mitchell, C. Michael	July 22, 2015	February 28, 2018			
Nyman, Jesse	February 1, 2016	December 20, 2020			
Pasieka, Paulene	December 20, 2016	December 19, 2018			
Rogers, Derek	August 28, 2013	August 27, 2018			
Wacyk, Tatiana	May 28, 2003	September 16, 2018			

Board Staff and Key Activities

The OLRB's operations and staff can be broadly divided into: Adjudication (OIC appointments), Administration, Mediation Services and Legal Services. The administrative, mediation and legal staff are public servants appointed under Part III of the *Public Service of Ontario Act, 2006*.

Office of the Director and Registrar

The Director/Registrar is the chief administrative officer of the Board. She, along with the Deputy Director / Registrar, is responsible for the overall administration of the Board's business operations, mediation and adjudication. The Director/Registrar, along with the Deputy Director/Registrar, oversees the effective processing and scheduling of each case and communicates with the parties in matters relating to the mediation of cases, scheduling of hearings or on particular issues in the processing of any given case. Every application received by the Board enters the system through the Director/Registrar's office.

Manager of Administration

The Manager of Administration is responsible for the efficient operation of the Board through the effective coordination of the procurement and budget functions, human resources functions, client services, information technology, and the provision of administrative direction for all shared/common services.

Library Services

Comprised of the former Ontario Labour Relations Board Library, the Workplace Safety and Insurance Appeals Tribunal Library and the Pay Equity Commission Library, the Ontario Workplace Tribunals Library is situated at 505 University Avenue, Toronto on the 7th floor.

Library holdings related to the OLRB include all reported OLRB decisions from 1944 to date, all judicial reviews of OLRB decisions from 1947 to date, all bargaining unit certificates issued by the OLRB from 1962 forward. In addition, the Library has a collection of all Employment Standards review decisions from 1970 to date and all Occupational Health and Safety appeal decisions from 1980 to date. Textbooks, journals and case reports in the areas of labour, administrative and constitutional law are also held.

Mediation Services

The Board is a pioneer in the area of alternative dispute resolution. The Manager, Mediation Services and Senior Mediators/Mediators ("Mediators") are responsible for mediating settlements in all of the Board's cases. In addition to settling cases, Mediators assist parties in identifying issues and streamlining the cases that do get adjudicated in order to avoid unnecessary litigation. They also, along with the Board's Labour Relations Conciliators, carry out the Board's pre and post-vote phone mediation program and conduct representation and final offer votes.

Information Technology Support

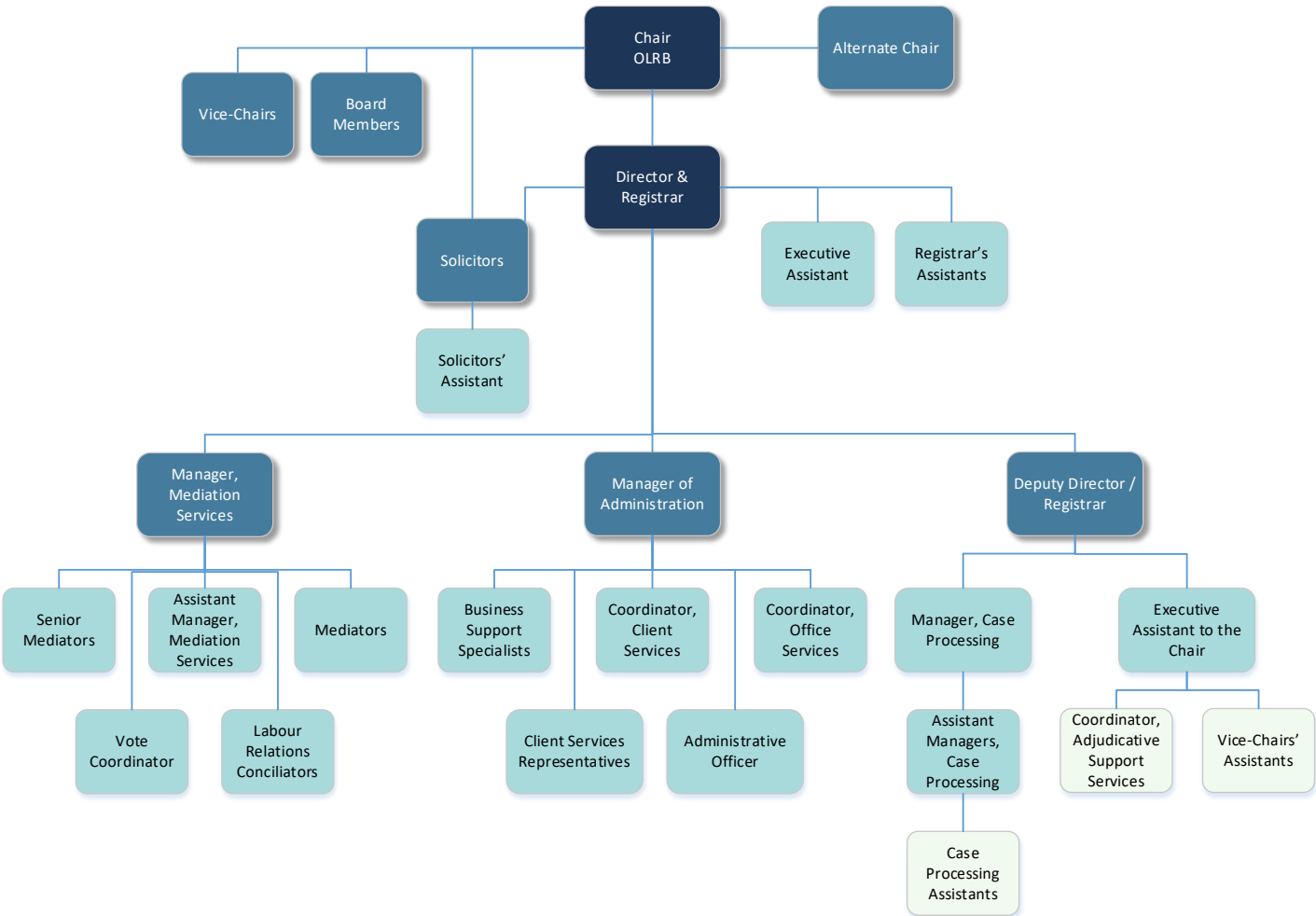
Services in IT were centralized within the Ministry of Labour and are now provided to the Board by a central help desk. Business Support Specialists at the Board maintain the systems, website and reporting services and work on major IT projects within the Board.

Legal Services

Legal Services to the Board are provided by the Solicitors' Office, which consists of two Board Solicitors. The Solicitors provide legal research, advice, opinions and memoranda to the Chair, Vice-Chairs, Board Members, Mediators and administrative staff.

They are extensively involved in changes to the Board's Rules of Procedure and forms and contribute to the continuing education of staff. The Solicitors are the Board's media spokespersons and handle all inquiries, investigations and complaints under freedom of information or human rights legislation and from Ombudsman Ontario. The Board's Solicitors also represent the Board in court proceedings, including applications for judicial review.

Organizational Chart



Operational Performance

An electronic case management system was implemented at the end of July, 2014 and improvements to it continue to enhance the Board's ability to report its activity. In late 2017, the Board launched its e-filing project with four forms. The number of forms which were available to be e-filed was then expanded in 2018. In 2017/2018, the Board received 300 electronically filed forms.

Case Numbers and Disposition

Overall, the Board received 3507 new applications this year. This number is higher than last year by 233 cases. 1737 additional cases remained open from previous years and 1136 cases were re-opened*, for a total number of files processed before the Board this year of 6380. (Figures 1 and 2) Of the 6380 files before the Board, 4682 were disposed of** (with/without a hearing), for example, by final decision, settlement, withdrawal or abandonment. Consequently, 1698 cases were carried into 2018/2019. The number of cases carried over was down 46 cases from the number carried over in 2016/2017. (The Board's case management system records cases which are adjourned sine die as "active" until the adjournment period expires and the file is then closed. In the past, the files were immediately closed when adjourned sine die.) The Board continues to work toward its goal to increase the number of cases disposed of in a year, and to that end we look for better ways to case manage, schedule, and deploy our resources.

Of disposed cases, 41.3% were completed within approximately 90 calendar days of application receipt and about 56% were completed within five months (Figure 16).

*Files are re-opened for various reasons including when an application for reconsideration is received or a dispute arises regarding the implementation of a settlement. The category of "re-opened" files is a result of the case management system.

**In Figure 1, the Total Closed column reflects the activity on a file: a file may have been closed more than once. In Figure 3, the Total Closed column reflects the final disposition of an individual case before hearing. Each unique case is only recorded as closed once.

Total Applications Received, Disposed and Pending

Case Type Description	Total Received	Re-Opened	Pending April 1st, 2017	Total Caseload	Total Closed	Granted / Partially	Dismissed	Terminated	Settled / Abandoned	Advice Withdrawn	Work Provided	Pending	Pending March 31st, 2018
Totals:	3,507	1,136	1,737	6,380	4,682	1,283	536	141	2,507	11	3	201	1,698
Accreditation (Construction)	7	1	4	12	8	5	0	0	3	0	0	0	4
Certification	648	503	440	1,591	1,228	749	141	19	299	1	0	19	363
Certification (Construction - Card Based)	314	378	264	956	749	473	53	13	192	0	0	18	207
Certification (Construction)	20	24	31	75	47	17	14	0	15	0	0	1	28
Certification (Construction - Open Period)	0	5	15	20	18	6	3	4	5	0	0	0	2
Certification (Industrial)	289	96	130	515	402	249	71	2	79	1	0	0	113
Certification (Specified Industries)	25	0	0	25	12	4	0	0	8	0	0	0	13
Colleges Collective Bargaining Act	4	0	12	16	13	2	0	0	11	0	0	0	3
Certification	1	0	1	2	0	0	0	0	0	0	0	0	2
College Vote	2	0	0	2	2	2	0	0	0	0	0	0	0
Violation of Colleges Collective Bargaining Act	1	0	11	12	11	0	0	0	11	0	0	0	1
Construction Grievance	843	324	347	1,514	1,191	260	6	15	779	0	0	131	323
Employment Standards	829	92	237	1,158	766	101	135	63	463	3	0	1	392
Employment Standards - Appeal (Director)	46	5	13	64	48	5	17	5	18	2	0	1	16
Employment Standards - Appeal (Employee)	230	32	97	359	250	35	37	10	168	0	0	0	109
Employment Standards - Appeal (Employer)	548	55	125	728	465	59	81	48	276	1	0	0	263
Referral under Employment Standards Act	3	0	2	5	2	2	0	0	0	0	0	0	3
Void Settlement – ES or EPFNA	2	0	0	2	1	0	0	0	1	0	0	0	1
Essential Services	4	0	1	5	4	2	0	0	2	0	0	0	1
Essential Services Agreement - Ambulance	4	0	1	5	4	2	0	0	2	0	0	0	1
Health & Safety Appeals	63	5	44	112	64	2	2	4	55	0	0	1	48
Appeal of Inspector's Order	53	3	43	99	56	1	1	3	51	0	0	0	43
Suspension of Order	10	2	1	13	8	1	1	1	4	0	0	1	5
Interim Order	27	1	1	29	27	4	2	1	20	0	0	0	2
Jurisdictional Dispute	53	23	54	130	82	3	10	3	50	0	3	13	48
Jurisdictional Dispute	0	6	9	15	14	0	3	1	8	0	0	2	1
Jurisdictional Dispute (Construction)	46	16	39	101	62	3	6	2	39	0	3	9	39
Jurisdictional Dispute (Industrial)	7	1	6	14	6	0	1	0	3	0	0	2	8
List of Employees	16	3	0	19	10	7	1	0	2	0	0	0	9
Ministerial Referrals	5	1	1	7	6	0	0	0	3	3	0	0	1
Ministerial Referral (General)	1	1	0	2	2	0	0	0	1	1	0	0	0
Ministerial Referral (HLDAA)	4	0	1	5	4	0	0	0	2	2	0	0	1
Ontario College of Trades	1	0	0	1	0	0	0	0	0	0	0	0	1
Public Sector Labour Relations Transition Act	12	2	13	27	14	3	0	0	11	0	0	0	13
PSLRTA (Other)	1	0	0	1	0	0	0	0	0	0	0	0	1
PSLRTA (Bargaining Units/Bargaining Agents)	11	2	13	26	14	3	0	0	11	0	0	0	12
Review of Structure of Bargaining Units	2	0	0	2	1	0	0	0	1	0	0	0	1
Sale of Business/Related Employer	155	32	97	284	177	43	20	1	101	0	0	12	107
Termination	52	4	48	104	88	47	22	7	10	1	0	1	16
Non-Construction Employer - Termination	0	0	1	1	0	0	0	0	0	0	0	0	1
Termination (Industrial)	34	3	28	65	58	36	12	4	5	1	0	0	7
Termination – Other (Non Vote-Based)	9	0	4	13	8	0	3	2	3	0	0	0	5
Termination (Construction - Open Period)	0	0	10	10	9	5	3	0	1	0	0	0	1
Termination (Construction)	9	1	5	15	13	6	4	1	1	0	0	1	2
Unfair Labour Practices	515	113	346	974	670	34	142	23	447	3	0	21	304
Duty of Fair Referral	2	1	6	9	8	0	4	0	4	0	0	0	1
Duty of Fair Representation	201	34	101	336	223	9	99	10	102	1	0	2	113
Failure to Comply with Settlement	18	6	8	32	24	4	4	0	16	0	0	0	8
Unfair Labour Practice	270	72	220	562	383	15	34	13	300	2	0	19	179
Unfair Labour Practice (Bad Faith)	11	0	9	20	18	1	0	0	17	0	0	0	2
Unlawful Lockout	2	0	1	3	3	1	0	0	2	0	0	0	0
Unlawful Strike	11	0	1	12	11	4	1	0	6	0	0	0	1
Unlawful Reprisals	231	27	68	326	278	8	39	4	226	0	0	1	48
Health and Safety - Inspector Referral	25	1	6	32	29	0	4	1	24	0	0	0	3
Health and Safety Reprisal	206	26	60	292	247	8	33	3	202	0	0	1	45
Reprisal – Environmental Protection Act	0	0	1	1	1	0	1	0	0	0	0	0	0
Unlawful Reprisal – Long Term-Care Homes Act	0	0	1	1	1	0	1	0	0	0	0	0	0
Votes	14	1	6	21	17	2	11	0	4	0	0	0	4
Last Offer Vote	14	1	6	21	17	2	11	0	4	0	0	0	4
Misc.	26	4	18	48	38	11	5	1	20	0	0	1	10
Consent to Institute Prosecution	2	0	0	2	1	0	1	0	0	0	0	0	1
Early Termination of Collective Agreement	7	2	1	10	10	9	1	0	0	0	0	0	0
Employee Status	5	0	4	9	6	1	1	0	4	0	0	0	3
Failure to Furnish Financial Statement	1	0	3	4	3	0	2	0	1	0	0	0	1
First Agreement Direction	6	2	4	12	11	0	0	0	10	0	0	1	1
Foreign Nationals - Appeal	0	0	1	1	1	0	0	0	1	0	0	0	0
Project Agreement	3	0	2	5	3	0	0	1	2	0	0	0	2
Sector Dispute (Construction)	1	0	2	3	2	0	0	0	2	0	0	0	1
Successor Trade Union	1	0	1	2	1	1	0	0	0	0	0	0	1

Figure 1

Applications Received and Disposed of - 5 Year Comparison

The majority of cases filed in 2017/18 fall under five main categories:

1. Under the *Labour Relations Act*, Certification and Termination of bargaining rights – 648 applications for certification and 52 applications for termination of bargaining rights.
2. Contraventions of the LRA (515) and the *Colleges Collective Bargaining Act* (1).
3. Under the LRA, Referrals of Construction Industry Grievances – 843.
4. Under the ESA, Appeals of decisions of Employment Standards Officers – 829.
5. Under the OHSA, Complaints under s. 50 and Appeals of Inspector's orders – 294.

The number of applications for certification and termination of bargaining rights was 700 which is lower this year over last by 32 cases, although it is to be noted there was no construction Open Period during this year. Of note is that while the number of applications for certification went up by 5, the number of termination applications decreased by 37 in 2017/2018.

Complaints of the contravention of the *Labour Relations Act* (section 96) rose by 19 applications. Complaints of contraventions of the *Colleges Collective Bargaining Act* fell by 10 from last year.

The number of construction grievances filed (843) was up from last year by 46.

The number of Employment Standards appeals increased by 107 cases, which is an increase of almost 15% from 2016/2017.

Complaints under the *Occupational Health and Safety Act* with respect to reprisals in the workplace increased from 219 last year to 231. Of the 231 applications filed this year, 25 were referred by inspectors (Figure 1). Appeals (including suspension applications) of health and safety inspectors' orders increased by 10 from the previous year.

Fiscal Years 2013-14 to 2017-18	Number Received, Fiscal Year						Number Disposed of, Fiscal Year					
	Total	2013-14	2014-15	2015-16	2016-17	2017-18	Total	2013-14	2014-15	2015-16	2016-17	2017-18
Type of Case	17,619	3,636	3,791	3,411	3,274	3,507	20,829	3,864	3,983	3,964	4,336	4,682
Accreditation (Construction)	21	-	2	4	8	7	22	4	-	3	7	8
Certification	3,306	698	632	684	643	649	4,733	742	901	818	1,044	1,228
College Vote	4	-	2	-	-	2	5	-	3	-	-	2
Consent to Institute Prosecution	5	1	-	1	1	2	5	2	-	1	1	1
Construction Grievance	4,477	987	996	854	797	843	5,177	996	1,072	948	970	1,191
Contravention of Act	515	515	-	-	-	-	625	625	-	-	-	-
Duty of Fair Referral	31	-	9	12	8	2	34	-	2	12	12	8
Duty of Fair Representation	725	-	167	174	183	201	779	-	152	184	220	223
Early Termination of Collective Agreement	28	7	8	3	3	7	30	5	9	4	2	10
Employee Status	33	9	7	8	4	5	37	7	8	10	6	6
Employment Standards (Appeal)	4,031	730	977	773	722	829	4,266	721	816	1,044	919	766
Essential Services - Crown Employees	6	-	4	2	-	-	7	-	1	5	1	0
Essential Services Agreement - Ambulance	14	1	3	3	3	4	14	1	4	2	3	4
Exemption From Union Security Provision in Collective Agreement	1	1	-	-	-	-	0	-	-	-	-	-
Failure to Comply with Settlement	62	-	15	11	18	18	71	-	16	12	19	24
Failure to Furnish Financial Statement	11	4	-	2	4	1	11	4	1	1	2	3
First Agreement Arbitration Direction	48	13	6	13	10	6	57	11	13	9	13	11
Foreign Nationals - Appeal	4	-	1	-	3	0	7	-	4	-	2	1
Health and Safety - Appeals	386	92	105	73	53	63	418	99	83	92	80	64
Health and Safety - Inspector Referrals	91	-	14	15	37	25	97	-	16	12	40	29
Health and Safety - Reprisals	897	179	168	162	182	206	943	174	161	170	191	247
Inadequate Financial Statement	1	-	-	1	-	0	1	-	-	1	-	0
Interim Order	113	-	31	25	30	27	125	-	31	22	45	27
Jurisdictional Dispute	279	52	75	61	38	53	461	103	91	62	123	82
Last Offer Vote	62	12	14	6	16	14	67	12	16	8	14	17
List of Employees	16	-	-	-	-	16	10	-	-	-	-	10
Ministerial Referrals	23	6	4	6	2	5	27	5	7	3	6	6
Ontario College of Trades	1	-	-	-	-	1	0	-	-	-	-	0
Other Case Types	13	13	-	-	-	-	18	18	-	-	-	-
Project Agreement	9	1	1	1	3	3	12	3	2	2	2	3
Public Sector Labour Relations Transition Act	58	13	17	6	10	12	64	20	13	7	10	14
Religious Exemption	2	-	2	-	-	-	3	-	2	1	-	-
Reprisal - Environmental Bill of Rights Act	3	1	1	1	-	0	3	1	1	-	1	0
Reprisal - Environmental Protection Act	2	-	-	1	1	0	2	-	-	-	1	1
Review of Structure of Bargaining Units	2	-	-	-	-	2	1	-	-	-	-	1
Right of Access	0	-	-	-	-	-	1	1	-	-	-	-
Sale of Business/Related Employer	653	135	150	118	95	155	748	126	150	153	142	177
School Board Collective Bargaining Act	8	-	7	-	1	0	8	-	4	3	1	0
Sector Dispute (Construction)	11	4	1	3	2	1	10	2	2	3	1	2
Successor Trade Union	47	29	2	11	4	1	48	22	11	11	3	1
Termination	403	118	70	74	89	52	494	146	83	79	98	88
Unfair Labour Practice	1,143	-	290	293	279	281	1,310	-	297	273	339	401
Unlawful Lockout	14	5	-	4	3	2	16	4	1	3	5	3
Act	1	-	-	-	1	0	1	-	-	-	0	1
Unlawful Reprisal - Public Inquiries Act	2	-	-	-	2	0	2	-	-	-	2	0
Act	4	-	2	-	2	0	4	-	1	1	2	0
Unlawful Reprisal - Smoke-Free Ontario Act	3	-	1	1	1	0	4	-	1	-	3	0
Unlawful Strike	38	10	7	5	5	11	39	10	8	5	5	11
Violation of Colleges Collective Bargaining Act	12	-	-	-	11	1	12	-	-	-	1	11

Figure 2

Cases Resolved Without a Final Hearing

Mediators are assigned to virtually every application filed with the Board and the majority of all files disposed of are resolved without the need for litigation at a hearing before the Board. This past year, almost 90% of all individual files closed were resolved without a final hearing including those settled or withdrawn through mediation.

Case Type Description	Total Closed	Settled	% of Cases Settled	To Final Hearing/ Consultation
Totals:	4,655	4,175	89.7%	480
Certification	1,228	1,090	88.8%	138
Certification (Construction - Card-Based)	749	646	86.2%	103
Certification (Construction)	47	40	85.1%	7
Certification (Construction - Open Period)	18	17	94.4%	1
Certification (Industrial)	402	375	93.3%	27
Certification (Specified Industries)	12	12	100.0%	0
Colleges Collective Bargaining Act	11	11	100.0%	0
Violation of Colleges Collective Bargaining Act	11	11	100.0%	0
Construction Grievance	1,191	1,107	92.9%	84
Employment Standards	766	664	86.7%	102
Employment Standards - Appeal (Director)	48	41	85.4%	7
Employment Standards - Appeal (Employee)	250	213	85.2%	37
Employment Standards - Appeal (Employer)	465	407	87.5%	58
Void Settlement - ES or EPFNA	1	1	100.0%	0
Referral under Employment Standards Act	2	2	100.0%	0
Essential Services	4	4	100.0%	0
Essential Services Agreement - Ambulance	4	4	100.0%	0
Health & Safety Appeals	64	62	96.9%	2
Interim Order	27	24	88.9%	3
Jurisdictional Dispute	82	65	79.3%	17
Jurisdictional Dispute	14	9	64.3%	5
Jurisdictional Dispute (Construction)	62	51	82.3%	11
Jurisdictional Dispute (Industrial)	6	5	83.3%	1
List of Employees	10	10	100.0%	0
Ministerial Referrals	6	5	83.3%	1
Ministerial Referral (General)	2	1	50.0%	1
Ministerial Referral (HLDAA)	4	4	100.0%	0
Public Sector Labour Relations Transition Act	14	12	85.7%	2
PSLRTA (Bargaining Units/Bargaining Agents)	14	12	85.7%	2
Review of Structure of Bargaining Units	1	1	100.0%	0
Sale of Business/Related Employer	177	156	88.1%	21
Termination	88	70	79.5%	18
Termination (Industrial)	58	50	86.2%	8
Termination - Other (Non Vote-Based)	8	4	50.0%	4
Termination (Construction)	13	9	69.2%	4
Termination (Construction - Open Period)	9	7	77.8%	2
Unfair Labour Practices	670	601	89.7%	69
Duty of Fair Referral	8	8	100.0%	0
Duty of Fair Representation	223	185	83.0%	38
Failure to Comply with Settlement	24	21	87.5%	3
Unfair Labour Practice	401	379	94.5%	22
Unlawful Lockout	3	2	66.7%	1
Unlawful Strike	11	6	54.5%	5
Unlawful Reprisals	278	258	92.8%	20
Health and Safety - Inspector Referral	29	29	100.0%	0
Health and Safety - Reprisal	247	227	91.9%	20
Reprisal - Environmental Protection Act	1	1	100.0%	0
Unlawful Reprisal - Long Term-Care Homes Act	1	1	100.0%	0
Misc	38	35	92.1%	3
Consent to Institute Prosecution	1	1	100.0%	0
Early Termination of Collective Agreement	10	10	100.0%	0
Employee Status	6	4	66.7%	2
Failure to Furnish Financial Statement	3	2	66.7%	1
First Agreement Arbitration Direction	11	11	100.0%	0
Foreign Nationals - Appeal	1	1	100.0%	0
Project Agreement	3	3	100.0%	0
Sector Dispute (Construction)	2	2	100.0%	0
Successor Trade Union	1	1	100.0%	0

Figure 3

Certification and Termination of Bargaining Rights Cases under the Labour Relations Act

Non-construction certification applications before the Board are decided by way of a representation vote, as are all termination applications, whether in the construction sector or not. Bill 148 amendments to the *Labour Relations Act* established, as of January 1, 2018, that in specified industries, namely the building services industry, home care and community services industry and the temporary help agency industry, certification could be achieved through a “card check” and not a vote. Similarly, the vast majority of construction certification applications are decided by a “card-check” process and not by vote. As such, the statistics shown about certification votes apply almost exclusively to non-construction sectors and to termination applications.

The Board received a total of 648 applications for certification and 52 applications for termination of bargaining rights (Figure 4). Of the 648 applications for certification received, 25 were applications for certification in a specified industry following the Bill 148 legislative amendments which came into effect on January 1, 2018.

The Board held a total of 304 votes in 2017/2018, with 11,247 ballots cast and counted. The vast majority of these votes relate to certification files; the remainder are representational votes in termination applications, under the successor employer/related employer provisions of the Act or are votes related to Hospital, School Board and Municipal re-organization. Of cases disposed of during 2017/2018, the majority of certification applications were successful as were the majority of termination applications (Figure 5).

Case Type Description		Total Received	Re-Opened	Pending April 1st, 2017	Total Caseload	Total Closed	Granted / Partially	Dismissed	Terminated	Settled, Withdrawn, Abandoned	Advice Provided	Work Altered	Pending	Pending March 31st, 2018
Totals:	700	507	488	1,695	1,316	796	163	26	309	2	0	20	379	
Certification	648	503	440	1,591	1,228	749	141	19	299	1	0	19	363	
Certification (Construction - Card Based)	314	378	264	956	749	473	53	13	192	0	0	18	207	
Certification (Construction)	20	24	31	75	47	17	14	0	15	0	0	1	28	
Certification (Construction - Open Period)	0	5	15	20	18	6	3	4	5	0	0	0	2	
Certification (Industrial)	289	96	130	515	402	249	71	2	79	1	0	0	113	
Certification (Specified Industries)	25	0	0	25	12	4	0	0	8	0	0	0	13	
Termination	52	4	48	104	88	47	22	7	10	1	0	1	16	
Non-Construction Employer - Termination	0	0	1	1	0	0	0	0	0	0	0	0	1	
Termination (Industrial)	34	3	28	65	58	36	12	4	5	1	0	0	7	
Termination – Other (Non Vote-Based)	9	0	4	13	8	0	3	2	3	0	0	0	5	
Termination (Construction - Open Period)	0	0	10	10	9	5	3	0	1	0	0	0	1	
Termination (Construction)	9	1	5	15	13	6	4	1	1	0	0	1	2	

Figure 4

	Representation Cases Disposed			Representation Votes Conducted*		Representation Ballots Cast		
	Totals	Granted	Not Granted	Votes Conducted	Employees on Employers List	Total	In Favour of	Against
Totals	1128	645	483	304	18,037	11,247	55.7%	44.3%
Certifications:	1060	607	453	271	16,805	10,377	57.4%	42.6%
Construction:	693	406	287	14	303	154	24.7%	75.3%
One Union	572	360	212	8	164	123	21.1%	78.9%
Two Unions	100	39	61	6	139	31	38.7%	66.5%
Three Unions	21	7	14					
Industrial:	367	201	166	257	16,502	10,223	57.9%	42.1%
One Union	302	170	132	213	12,626	7,902	61.5%	38.5%
Two Unions	56	27	29	38	3,511	2,184	44.0%	56.0%
Three Unions	9	4	5	6	365	137	73.0%	27.0%
Termination:								
One Union	68	38	30	33	1,232	870	35.3%	64.7%

* Refers to all representation votes conducted and the results counted during the fiscal year, regardless of whether or not the case was disposed of during the year

Figure 5

Of the 450 cases in which certificates were issued, 241 bargaining units were composed of 2 - 9 employees (205 of those were in the construction industry), and at the other extreme eight were bargaining units of over 200 employees (only in the industrial setting). (Figure 6)

Employees	Total		Construction		Industrial	
	Cases	Employees	Cases	Employees	Cases	Employees
Total:	450	11,593	259	1,897	191	9,696
2-9	241	1,039	205	815	36	224
10-19	75	1,002	31	383	44	619
20-39	60	1,612	18	486	42	1,126
40-99	50	3,010	5	213	45	2,797
100-199	16	2,178			16	2,178
200-499	7	2,042			7	2,042
500 +	1	710			1	710

Figure 6

Of the non-construction certification applications, a minority were in the manufacturing industry and the majority related to the broader public sector, service and non-manufacturing industries (Figure 7)

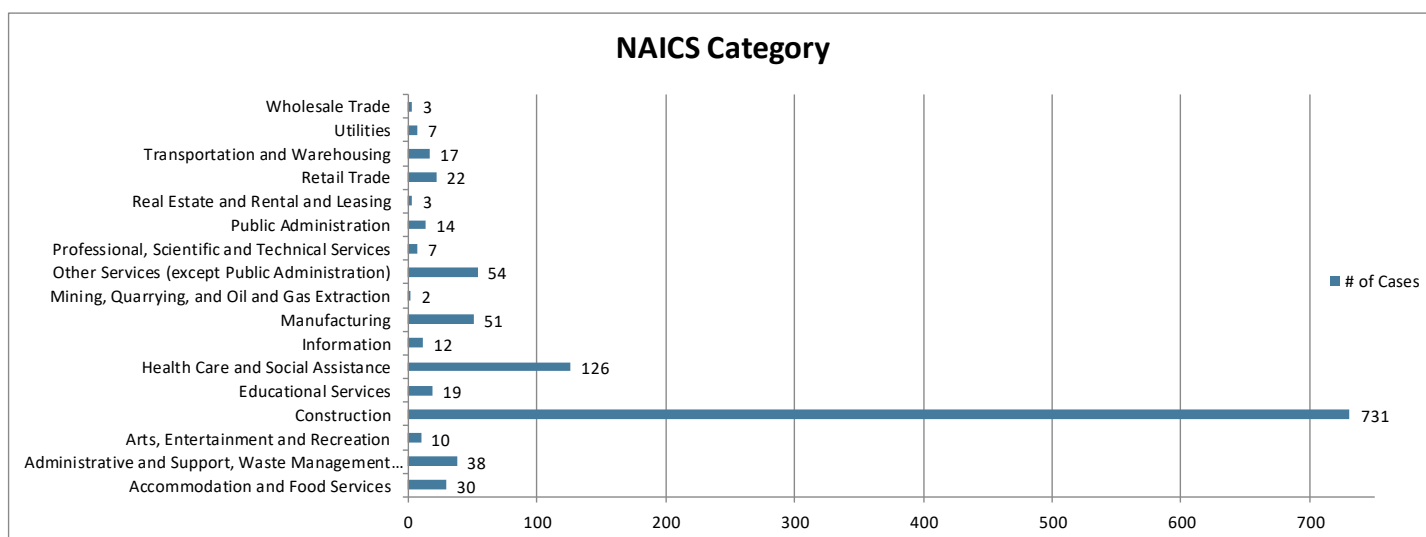


Figure 7

Almost 93% of all non-construction certification votes were held within five working days of application and 96.5% were held within seven days. Non-construction termination applications took slightly longer, largely because of bargaining unit and notice issues: 87.9% were held within five days of application, 100% within seven days of application. (Figure 8)

Number of Days	Certification						Termination					
	Total		Industrial		Construction		Total		Industrial		Construction	
	Cases	% of	Cases	% of	Cases	% of	Cases	% of	Cases	% of	Cases	% of
	293		286		7		42		33		9	
< 5	1	0.3%	1	0.3%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
5	264	90.8%	263	92.7%	1	14.3%	29	69.0%	29	87.9%	0	0.0%
6	4	91.8%	3	93.4%	1	28.6%	4	78.6%	2	93.9%	2	22.2%
7	13	96.2%	9	96.5%	4	85.7%	8	97.6%	2	100.0%	6	88.9%
8	2	96.9%	2	97.2%	0	85.7%	0	97.6%		100.0%	0	88.9%
9	0	96.9%	0	97.2%	0	85.7%	0	97.6%		100.0%	0	88.9%
10	1	97.3%	1	97.6%	0	85.7%	0	97.6%		100.0%	0	88.9%
11-15	2	98.0%	2	98.3%	0	85.7%	1	100.0%		100.0%	1	100.0%
16-20	1	98.3%	0	98.3%	1	100.0%	0	100.0%		100.0%	0	100.0%
21+	5	100.0%	5	100.0%	0	100.0%	0	100.0%		100.0%	0	100.0%

Figure 8

Contravention of the Act

Complaints alleging contravention of the *Labour Relations Act* may be filed with the Board under section 96 of the Act.

In 2017/2018, the Board received 515 complaints under this section, an increase of 19 from last year (Figures 9 and 2). In complaints against employers, the principal charges were alleged illegal discharge of or discrimination against employees for union activity in violation of section 70 and 72 of the Act, illegal changes in wages and working conditions contrary to section 86, and failure to bargain in good faith under section 17. These charges were made mostly in connection with applications for certification. The principal charge against trade unions was alleged failure to represent employees fairly in grievances against their employer.

Overall, in addition to the complaints received, 346 cases were carried over from 2016/2017 and 113 were re-opened. Of the 974 cases processed, there were 670 file closures, 304 cases were pending on March 31, 2018 (Figures 1 and 9). Of 670 files closed on a final basis, approximately 90% were resolved without a final hearing (Figure 3).

Duty of Fair Representation / Referral

Complaints against trade unions for a breach of the duty to provide fair representation or referral (ss. 74 and 75 LRA) numbered 203. Nine were granted, 103 were dismissed and 10 were terminated. Of 223 individual duty of fair representation files closed, 83% were resolved without a final hearing (Figure 3). Of 8 duty of fair referral files closed, 100% of closed duty of fair referrals were resolved without a final hearing (Figure 3). Only 38 of both case types proceeded to a determination following a final consultation/hearing (Figure 3). 114 were pending as of March 31, 2018 (Figure 9).

Declaration/Direction of Unlawful Strike/Lock-out

In 2017/2018, the Board received eleven applications and one file was carried over seeking a declaration under section 100 regarding an alleged unlawful strike by employees. Six cases settled without a final hearing, four were granted, one was dismissed and one was pending on March 31, 2018.

Two applications for a declaration under section 101 regarding an alleged unlawful lock-out by an employer were received bringing the caseload to three in 2017/2018. Two were resolved without a final hearing. One was granted and none was pending at the end of the year (Figure 9).

Case Type Description	Total Received	Re-Opened	Pending April 1st, 2017	Total Caseload	Total Closed	Granted/Partially	Dismissed	Terminated	Settled/Abandoned	Advice Provided	Work Altered	Pending	Pending March 31st, 2018
Unfair Labour Practices	515	113	346	974	670	34	142	23	447	3	0	21	304
Duty of Fair Referral	2	1	6	9	8	0	4	0	4	0	0	0	1
Duty of Fair Representation	201	34	101	336	223	9	99	10	102	1	0	2	113
Failure to Comply with Settlement	18	6	8	32	24	4	4	0	16	0	0	0	8
Unfair Labour Practice	270	72	220	562	383	15	34	13	300	2	0	19	179
Unfair Labour Practice (Bad Faith)	11	0	9	20	18	1	0	0	17	0	0	0	2
Unlawful Lockout	2	0	1	3	3	1	0	0	2	0	0	0	0
Unlawful Strike	11	0	1	12	11	4	1	0	6	0	0	0	1

Figure 9

Construction Industry Grievances

Grievances over alleged violations of the provisions of a collective agreement in the construction industry may be referred to the Board for resolution under section 133 of the Act.

In 2017/2018, the Board received 843 cases under this section (Figure 1). The principal issues in these grievances were alleged failure by employers to make required contributions to health and welfare, pension and vacation funds, failure to deduct union dues, and alleged violation of the subcontracting and hiring arrangements in the collective agreement.

In addition to the cases received, 347 were carried over from 2016/2017 and 324 were re-opened. Of the total 1,514 processed, there were 1,191 individual files closed. 260 cases were granted or partially granted, 6 cases were dismissed, 15 were terminated and 779 individual files or 92.9% were resolved without a final hearing. 131 cases were pending determination on another file on March 31, 2018 and 323 cases were pending on March 31, 2018 (Figure 1).

Appeals under the Employment Standards Act

The *Employment Standards Act* deals with workplace rights such as minimum wage, hours of work, overtime, vacation or public holiday pay, violations of pregnancy or reprisal provisions, termination issues, and severance pay. Bill 148 enacted a number of new amendments to the *Employment Standards Act*, which came into force on January 1, 2018.

The Board dealt with 1,158 cases during 2017/2018, which includes 829 new cases filed, 237 cases from the previous year and 92 re-opened files. Of the 766 case closures, 101 were granted, 135 were dismissed, and 63 were terminated. 392 cases were pending on March 31, 2018 (Figure 10). Almost 67% of the appeals were filed by the employer (Figure 11). 86.7% or 664 of individual cases closed were resolved without a hearing and 102 cases went to a final hearing (Figure 3).

Case Type Description	Total Received	Re-Opened	Pending April 1st, 2017	Total Caseload	Total Closed	Granted / Partially	Dismissed	Terminated	Settled, Withdrawn, Abandoned	Advice Provided	Work Altered	Pending	Pending March 31st, 2018
Employment Standards	829	92	237	1,158	766	101	135	63	463	3	0	1	392
Employment Standards - Appeal (Director)	46	5	13	64	48	5	17	5	18	2	0	1	16
Employment Standards - Appeal (Employee)	230	32	97	359	250	35	37	10	168	0	0	0	109
Employment Standards - Appeal (Employer)	548	55	125	728	465	59	81	48	276	1	0	0	263
Referral under Employment Standards Act	3	0	2	5	2	2	0	0	0	0	0	0	3
Void Settlement – ES or EPFNA	2	0	0	2	1	0	0	0	1	0	0	0	1

Figure 10

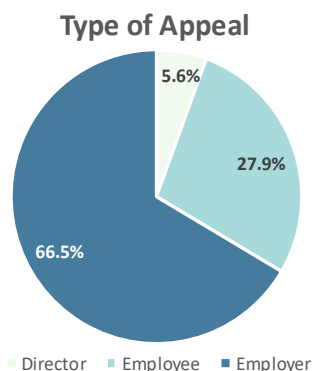


Figure 11

Occupational Health and Safety Act

Appeals under the Occupational Health and Safety Act

The *Occupational Health and Safety Act* and its regulations ensure that workers' health and safety in the workplace is protected. Violations of the Act are investigated by health and safety inspectors from the Ministry of Labour; orders or decisions of inspectors are the subject of appeals to the Ontario Labour Relations Board.

One hundred and twelve appeals, including applications for suspensions, were dealt with by the Board in 2017/2018. Two appeals were granted, two were dismissed, 55 cases were settled, four cases were terminated and 48 cases were pending on March 31, 2018 (Figure 12). Of 64 individual files closed, almost 97% were resolved prior to a hearing and only two were scheduled for final hearing (Figure 3).

Case Type Description	Total Received	Re-Opened	Pending April 1st, 2017	Total Caseload	Total Closed	Granted/ Partially	Dismissed	Terminated	Settled, Withdrawn, Abandoned	Advice Provided	Work Altered	Pending	Pending March 31st, 2018
Health & Safety Appeals	63	5	44	112	64	2	2	4	55	0	0	1	48
Appeal of Inspector's Order	53	3	43	99	56	1	1	3	51	0	0	0	43
Suspension of Order	10	2	1	13	8	1	1	1	4	0	0	1	5

Figure 12

Unlawful Reprisals

Health and Safety Reprisals

In 2017/2018, the Board received 231 complaints under Section 50 of the *Occupational Health and Safety Act* alleging wrongful discipline or discharge for acting in compliance with the Act. Sixty-six cases were carried over from 2016/2017 and 27 were re-opened for a total of 324 cases (Figure 13). Twenty-five of the applications filed in 2017/2018 were referred by health and safety inspectors (Figure 13).

In 2017/2018, the Board received no other reprisal complaints alleging wrongful discipline or discharge for acting in compliance with a number of other statutes (Figure 13). Of the total 278 individual cases closed, 258 cases (92.8%) were resolved by the parties prior to a final hearing (Figure 3). Forty-three cases were dismissed or terminated, and eight were granted. Forty-eight cases were pending on March 31, 2018 (Figure 13).

Case Type Description	Total Received	Re-Opened	Pending April 1st, 2017	Total Caseload	Total Closed	Granted/ Partially	Dismissed	Terminated	Settled, Withdrawn, Abandoned	Advice Provided	Work Altered	Pending	Pending March 31st, 2018
Unlawful Reprisals	231	27	68	326	278	8	39	4	226	0	0	1	48
Health and Safety - Inspector Referral	25	1	6	32	29	0	4	1	24	0	0	0	3
Health and Safety Reprisal	206	26	60	292	247	8	33	3	202	0	0	1	45
Reprisal – Environmental Protection Act	0	0	1	1	1	0	1	0	0	0	0	0	0
Unlawful Reprisal – Long Term-Care Homes Act	0	0	1	1	1	0	1	0	0	0	0	0	0

Figure 13

Other Applications

Applications for Interim Order

Where a proceeding is pending, the Board, on application under the *Labour Relations Act* and the *Occupational Health and Safety Act*, may make interim orders. With the enactment of Bill 148, the circumstances where an interim order can be sought and directed by the Board are expanded.

In 2017/2018, the Board received 27 applications for interim orders, one was re-opened and one was pending from the previous year. During the year, four interim orders were granted, two were dismissed and one was terminated. Twenty-four files were resolved without a final hearing (Figure 3). Two were pending on March 31, 2018 (Figure 1).

Applications for List of Employees

The enactment of Bill 148 introduced a new provision permitting a union to apply to the Board for a list of employees of the employer. This came into effect on January 1, 2018. The statute neither requires and the procedure established by the Board for the adjudication of these cases does not contemplate a hearing. There were 16 applications received as at March 31, 2018. Seven were granted, one was dismissed, two were withdrawn, three were re-opened and 9 were pending on March 31, 2018 (Figure 1).

Applications for Review of Structure of Bargaining Units

Bill 148 enacted new provisions in the *Labour Relations Act* permitting the Board to review the structure of bargaining units in certain circumstances and to consolidate a newly certified bargaining unit with other existing bargaining units at the same employer, where those units are represented by the same union. In addition, the parties can jointly agree to review the structure of the bargaining units and can make a joint application for consent of the Board to consolidate bargaining units.

In 2017/2018, the Board received two applications for review of the structure of bargaining units. One was disposed of without a hearing and one remained pending as at March 31, 2018 (Figure 1).

No joint application for review of the structure of bargaining units was received.

Jurisdictional Disputes

130 applications were before the Board under section 99 of the Act involving union work jurisdiction. Three applications were granted, ten cases were dismissed, three were terminated and 48 cases were pending on March 31, 2018 (Figure 14). Sixty-five individual cases closed were resolved prior to a final hearing date (Figure 3).

Case Type Description	Total Received	Re-Opened	Pending April 1st, 2017	Total Caseload	Total Closed	Granted / Partially	Dismissed	Terminated	Settled, Withdrawn, Abandoned	Advice Provided	Work Altered	Pending	Pending March 31st, 2018
Jurisdictional Dispute	53	23	54	130	82	3	10	3	50	0	3	13	48
Jurisdictional Dispute	0	6	9	15	14	0	3	1	8	0	0	2	1
Jurisdictional Dispute (Construction)	46	16	39	101	62	3	6	2	39	0	3	9	39
Jurisdictional Dispute (Industrial)	7	1	6	14	6	0	1	0	3	0	0	2	8

Figure 14

Sale of Business/Related Employer Applications

The Board received 155 applications alleging that 2 or more businesses were related and therefore should be treated as one employer under section 1(4) of the *Labour Relations Act* or that there had been a sale of a business or part of a business which has affected the representation rights of the employees (section 69 of the *Labour Relations Act*). This number was up 60 applications from 95 in the previous year (Figure 2).

The Board re-opened 32 applications and had 97 pending from the previous year for a total caseload of 284 cases. In 2017/2018, of the 177 cases closed, 43 were granted, 20 were dismissed one was terminated and 156 were resolved without a final hearing or 88.1% (Figure 3). 107 applications were pending as of March 31, 2018.

Essential Services

No applications were received under the *Crown Employees Collective Bargaining Act* in 2017/2018.

Four cases were received under the *Ambulance Services Collective Bargaining Act* and one was pending from the previous year. Two cases were granted, one remained pending at the end of the year and two were resolved without a final hearing (Figure 15).

Colleges Collective Bargaining Act

The *Colleges Collective Bargaining Act, 2008* extended collective bargaining to part-time and sessional employees of Colleges of Applied Arts and Technology. The CCBA, 2008 addresses certifications and terminations of bargaining rights, unfair labour practice complaints and provides for collective negotiation, conciliation and mediation processes that are similar to those set out in the *Labour Relations Act, 1995*.

The Board received one application for certification in 2017/2018 and one was pending from the previous year.

Pursuant to the *Colleges Collective Bargaining Act*, votes to ratify a proposed collective agreement or memorandum of settlement (section 16) and strike votes (section 17(1)) are to be conducted under the supervision of the Board. The Board supervised 2 votes under the *Colleges Collective Bargaining Act* in 2017/2018 – one strike vote and one ratification vote (Figure 15).

Pursuant to section 17(2) of the *Colleges Collective Bargaining Act*, the College Employer Council may request the Board to conduct a vote of employees to accept or reject the last offer of the Council. The Board received one request under the CCBA in 2017/2018 to conduct a last offer vote. This vote was held electronically and the employees voted to reject the proposed collective agreement.

In 2017/2018, there was one unfair labour practice complaint filed, 11 cases were closed without a final hearing, and one remained pending as of March 31, 2018 (Figure 15).

Last Offer Votes

The Minister of Labour requests the Board to conduct votes among employees on employers' last offers for settlement of a collective agreement dispute under section 42(1) of the Act. Although the Board is not responsible for the administration of votes under that section, the Board's Mediators and Labour Relations Conciliators are assigned by the Registrar to conduct these votes because of their expertise and experience in conducting representation votes under the Act.

The Board received 14 requests during the fiscal year for a total caseload of 21. The employees voted to reject the collective agreement in 11 cases. Four cases were settled or withdrawn, two accepted and four cases were pending on March 31, 2018 (Figure 15).

Declaration of Successor Trade Union

One application for declaration of successor trade union was received. One was granted or partially granted and one case remained pending as of March 31st, 2018 (Figure 15).

Early Termination of Collective Agreement

Seven applications were received under section 58(3) of the *Labour Relations Act*, seeking early termination of collective agreements in 2017/2018. Two were re-opened and one was pending as at March 31, 2018. These are joint applications by employers and trade unions. Consent was granted in nine cases and one was dismissed (Figure 15).

Referral on Employee Status

The Board had nine applications before it under section 114(2) of the Act, seeking decisions on the status of individuals as employees under the Act. Six cases closed, 4 of which were resolved by the parties before a final hearing, one was granted, one was dismissed and one case was pending on March 31, 2018 (Figure 15).

Referrals by Minister of Labour

In 2017/2018, the Board dealt with seven cases including five new cases referred by the Minister under section 115 of the LRA for opinions or questions related to the Minister's authority to appoint a conciliation officer under section 18 of the LRA, under sections 48 or 49 of the LRA for authority to appoint an arbitrator, or under s.3 (2) of the *Hospital Labour Disputes Arbitration Act*. Three applications were resolved without a hearing. Advice was provided in three cases and one remains pending on March 31, 2018 (Figure 15).

First Agreement Arbitration

In 2017/2018, the Board processed twelve applications for directions to settle first agreements by arbitration and one remained pending on March 31, 2018. Ten files were resolved without a final hearing, one remains pending on March 31, 2018 (Figures 15).

Applications under the *Public Sector Labour Relations Transition Act*

The *Public Sector Labour Relations Transition Act, 1997* established a separate regime of successor rights governing matters that arise out of restructuring and amalgamations in the broader public sector. The Act gives the Board the power to determine new bargaining unit configurations, to appoint new bargaining agents, and to address other collective bargaining issues that may arise from municipal amalgamations, school board changes and hospital restructuring.

In 2017/2018, the Board processed 27 applications under the *Public Sector Labour Relations Transition Act, 1997* including 12 new applications. Three applications were granted, none were dismissed or terminated and 12 individual files or almost 86% were disposed of without a final hearing. Thirteen cases were pending on March 31, 2018 (Figures 15 and 3).

Appeals under the *Ontario College of Trades and Apprenticeship Act*

The *Ontario College of Trades and Apprenticeship Act* provides that applications for review may be made to the Board in respect of Notices of Contravention issued by the Registrar and Inspector under that Act. It came into effect in June 2017. In 2017/2018, the Board received one application for review which remained pending as of March 31, 2018 (Figure 15).

Case Type Description	Total Received				Total Caseload	Total Closed										Pending March 31st, 2018
	Totals:	221	40	148		409	269	63	36	2	152	3	0	13	140	
Colleges Collective Bargaining Act	4	0	12	16	13	2	0	0	0	11	0	0	0	3		
Certification	1	0	1	2	0	0	0	0	0	0	0	0	0	2		
College Vote	2	0	0	2	2	2	0	0	0	0	0	0	0	0		
Violation of Colleges Collective Bargaining Act	1	0	11	12	11	0	0	0	0	11	0	0	0	1		
Essential Services	4	0	1	5	4	2	0	0	0	2	0	0	0	1		
Essential Services Agreement - Ambulance	4	0	1	5	4	2	0	0	0	2	0	0	0	1		
Ministerial Referrals	5	1	1	7	6	0	0	0	0	3	3	0	0	1		
Ministerial Referral (General)	1	1	0	2	2	0	0	0	0	1	1	0	0	0		
Ministerial Referral (HLDAA)	4	0	1	5	4	0	0	0	0	2	2	0	0	1		
Ontario College of Trades	1	0	0	1	0	0	0	0	0	0	0	0	0	1		
Public Sector Labour Relations Transition Act	12	2	13	27	14	3	0	0	0	11	0	0	0	13		
PSLRTA (Other)	1	0	0	1	0	0	0	0	0	0	0	0	0	1		
PSLRTA (Bargaining Units/Bargaining Agents)	11	2	13	26	14	3	0	0	0	11	0	0	0	12		
Sale of Business/Related Employer	155	32	97	284	177	43	20	1	101	0	0	12	107			
Votes	14	1	6	21	17	2	11	0	4	0	0	0	4			
Last Offer Vote	14	1	6	21	17	2	11	0	4	0	0	0	4			
Misc.	26	4	18	48	38	11	5	1	20	0	0	1	10			
Consent to Institute Prosecution	2	0	0	2	1	0	1	0	0	0	0	0	1			
Early Termination of Collective Agreement	7	2	1	10	10	9	1	0	0	0	0	0	0			
Employee Status	5	0	4	9	6	1	1	0	4	0	0	0	3			
Failure to Furnish Financial Statement	1	0	3	4	3	0	2	0	1	0	0	0	1			
First Agreement Direction	6	2	4	12	11	0	0	0	10	0	0	1	1			
Foreign Nationals - Appeal	0	0	1	1	1	0	0	0	1	0	0	0	0			
Project Agreement	3	0	2	5	3	0	0	1	2	0	0	0	2			
Sector Dispute (Construction)	1	0	2	3	2	0	0	0	2	0	0	0	1			
Successor Trade Union	1	0	1	2	1	1	0	0	0	0	0	0	1			

Figure 15

Time Required to Disposed of Applications, by Major Case Type

Time Taken (Calendar Days)	All Cases		Certification		Contravention		Health & Safety		Employment Standards		Construction Industry Grievances		All Other Cases	
	Cumulative %	Dispositions	Cumulative %	Dispositions	Cumulative %	Dispositions	Cumulative %	Dispositions	Cumulative %	Dispositions	Cumulative %	Dispositions	Cumulative %	Dispositions
Total	3942		1343		569		310		674		885		161	
0-7	82	2.1	20	1.5	12	2.1	2	0.6	1	0.1	38	4.3	9	5.6
8-14	276	9.1	10	2.2	22	6.0	4	1.9	0	0.1	228	30.1	12	13.0
15-21	111	11.9	7	2.8	20	9.5	13	6.1	3	0.6	56	36.4	12	20.5
22-28	115	14.8	11	3.6	21	13.2	17	11.6	17	3.1	42	41.1	7	24.8
29-35	125	18.0	10	4.3	21	16.9	42	25.2	15	5.3	29	44.4	8	29.8
36-42	107	20.7	7	4.8	14	19.3	44	39.4	23	8.8	17	46.3	2	31.1
43-49	86	22.9	11	5.7	11	21.3	23	46.8	23	12.2	15	48.0	3	32.9
50-56	113	25.7	24	7.4	22	25.1	12	50.6	32	16.9	20	50.3	3	34.8
57-63	133	29.1	42	10.6	18	28.3	14	55.2	45	23.6	13	51.8	1	35.4
64-70	117	32.1	30	12.8	13	30.6	14	59.7	40	29.5	18	53.8	2	36.6
71-77	117	35.1	51	16.6	16	33.4	8	62.3	33	34.4	7	54.6	2	37.9
78-84	132	38.4	68	21.7	13	35.7	6	64.2	34	39.5	6	55.3	5	41.0
85-91	115	41.3	57	25.9	10	37.4	8	66.8	30	43.9	8	56.2	2	42.2
92-98	96	43.8	47	29.4	17	40.4	5	68.4	20	46.9	6	56.8	1	42.9
99-105	71	45.6	27	31.4	10	42.2	2	69.0	23	50.3	6	57.5	3	44.7
106-126	175	50.0	61	36.0	29	47.3	8	71.6	58	58.9	16	59.3	3	46.6
127-147	133	53.4	41	39.0	21	51.0	8	74.2	47	65.9	14	60.9	2	47.8
148-168	101	55.9	29	41.2	17	54.0	6	76.1	39	71.7	8	61.8	2	49.1
168+	1737	100.0	790	100.0	262	100.0	74	100.0	191	100.0	338	100.0	82	100.0

Figure 16

Court Activity

On April 1, 2017, there were twenty-one Board matters pending before the Courts, all but one of them at the Divisional Court level.

During the 2017-2018 fiscal year, there were twenty-two new applications for judicial review of Board decisions filed with the Divisional Court.

Sixteen applications for judicial review were disposed of by the Divisional Court. Twelve were dismissed on the merits and four were abandoned.

Twenty-seven applications for judicial review remained outstanding at Divisional Court on March 31, 2018.

Two motions to stay Board decisions were filed pending judicial review. Both motions were dismissed.

Five motions for leave to the Court of Appeal were filed during the fiscal year and one remained pending:

- *B. Lee*
- *B. Lee #2.*
- *Q. Qui*
- *Carpenters (Riverside)*
- *D. Houle*
- *W.H.D. Acoustics*

Three of these motions (*Carpenters (Riverside)*, *Houle*, and *WHD Acoustics*) were dismissed; the other three are pending.

There was no activity at the Supreme Court of Canada.

Type of Case	Caseload			Disposed of				Pending March 31, 2018
	Total	Pending April 1, 2017	Received	Total	Granted	Dismissed	Abandoned	
Total	51	22	29	21	0	17	4	30
Divisional Court (Merits)	43	21	22	16	0	12	4	27
Divisional Court (Stay)	2	0	2	2	0	2	0	0
Ontario Court of Appeal (Seeking Leave)	6	1	5	3	0	3	0	3
Ontario Court of Appeal (Merits)	0	0	0	0	0	0	0	0
Supreme Court of Canada (Seeking Leave)	0	0	0	0	0	0	0	0
Supreme Court of Canada (Merits)	0	0	0	0	0	0	0	0

Figure 17

Financial Position

The Board's annual operating budget is part of the Ministry's estimates and allocation process and the Board is required to report regularly on its expenditures and planned commitments.

The Deputy Minister of Labour has delegated authority for specific financial and administrative transactions to the Chair of the Board, the Director and Managers.

The OLRB is subject to audit review and expenditure constraints and its managers are accountable for following established management practices and using public resources for authorized purposes.

Salary expenditures were less than expected due to staff vacancies and consequent recruitment initiatives. Travel expenditures resulted in a savings due to staff vacancies within mediation services. Throughout the budget year, services expenses were higher than expected largely due to increased IT costs related to the Board's IT initiatives and the continued utilization of tri-partite panels in adjudicative hearings. The total annual remuneration for all OIC appointees was \$2,789,346.

All figures in \$000.0 thousand

Account	Year-end Budget incl. lease	Year-end Actuals	Variance	% Variance
Salaries & Wages	7,922.9	7,866.8	56.1	0.7%
Benefits	962.8	994.4	(31.6)	-3.3%
ODOE:				
Transportation & Communication	448.9	317.9	131	29.2%
Services	3,716.4	3,798.7	(82.3)	-2.2%
Supplies & Equipment	82.2	76.0	6.2	7.5%
Total ODOE	4,247.5	4,192.6	54.9	1.3%
Total	13,133.2	13,053.8	79.4	0.6%

Non-Tax Revenue	2017-2018 Revenue
Construction Grievance	\$497.0
Publications	
Subscriptions	\$2.8
Total	\$499.8

Performance Measures

Each year the OLRB provides a broad accountability of progress achieved on our core performance measures. We take each of our goals and track progress on a series of performance measures designed to assess whether the Board is measuring up to corporate standards and program targets/commitments.

Fiscal Measures: Percentage variance between year-end allocation expenditure.

Standard / Target:	Less than 2% variance between year-end allocation and expenditure.
2017-2018 Commitments:	Less than 2% variance between year-end allocation and expenditure.
2017-2018 Achievements:	Actual: 0.6% variance Approved budget: \$13,133.2 Actual expenditure: \$13,053.2

Program Effectiveness Measures: Meeting legislated timelines.

Standard / Target:	90% industrial certification votes held within 5-7 days. 95% held within 10 days. 5% or less held within more than 10 days.
2017-2018 Commitments:	90% industrial certification votes held within 5-7 days. 95% held within 10 days. 5% or less held within more than 10 days.
2017-2018 Achievements:	Actual: 96.2% of votes held within 5-7 days or less 97.3% of votes held within 10 days or less Less than 3% of votes held in over 10 days

Percentage of LRA, ES and HS cases resolved prior to hearing.

Standard / Target:	LRA cases: 85% ESA (appeals) cases: 75% OHS (appeals) cases: 75% OHS (complaints) cases: 75%
2017-2018 Commitments:	LRA cases: 85% ESA (appeals) cases: 75% OHS (appeals) cases: 75% OHS (complaints) cases: 75%
2017-2018 Achievements:	Actual: LRA cases: 90.2% ESA (appeals) cases: 86.7% OHS (appeals) cases: 97% OHS (complaints) cases: 92.8%

Percentage of Judicial Reviews Upheld

Standard / Target:	90-100%
2017-2018 Commitments:	90-100%
2017-2018 Achievements:	100%

Accountability Statement

The OLRB's Annual Report for the fiscal year ending March 31, 2018 was prepared under my direction for submission to the Minister of Labour in accordance with the Agencies and Appointments Directive as issued by Management Board of Cabinet.

The Public Accounts of Ontario are the annual financial statements that are prepared in compliance with the requirements of Section 13 of the *Ministry of Treasury and Economics Act*. The Public Accounts consist of the financial report of the Government of Ontario and the financial reports of each ministry. In accordance with the Ministry of Labour's Delegation of Financial Authority Framework, financial authority is delegated to the agency. Each year the OLRB verifies that all its transactions are reflected accurately and completely in the Public Accounts through the execution of a Certificate of Assurance.

As an agency of the Ministry of Labour, the OLRB's Annual Report is subject to the minimum reporting requirements established in the Agencies and Appointments Directive, including:

- Financial statements that have been audited or subject to the appropriate level of external assurance;
- Analysis of operational performance;
- Analysis of financial performance;
- Names of appointees and term of appointments
- Performance measures, targets achieved/not achieved and action to be taken.

This report covers the fiscal year April 1, 2017 to March 31, 2018.

For More Information

Local: 416-326-7500

Toll-Free: 1-877-339-3335

Hearing Impaired (TTY): 416-212-7036

Fax: 416-326-7531

Hours of Operation: 8:30am - 5:00pm

Website: <http://www.olrb.gov.on.ca>

505 University Avenue, 2nd Floor
Toronto, Ontario
M5G 2P1