

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

2021-2022

ISSN 2562-8259

Table of Contents

Chair's Message	2
Overview	4
The Board's Principal Statutes	6
Overview of Board Processes.....	8
Overview of Board's Activities during the Pandemic.....	9
Organization.....	12
Key Activities.....	14
Caseload Processing.....	18
Total Applications Received, Disposed and Pending	19
Applications Received and Disposed of - 5 Year Comparison.....	20
Cases Resolved Without a Hearing	22
Certification and Termination of Bargaining Rights Cases under the <i>Labour Relations Act</i>	23
Contravention of the <i>Labour Relations Act</i>	27
Construction Industry Grievances.....	28
Appeals under the <i>Employment Standards Act</i>	29
<i>Occupational Health and Safety Act</i>	30
Unlawful Reprisals	31
Other Applications	32
Time Required to Dispose of Applications, By Major Case Type	36
Percentage of Cases Closed within 3, 6 and 9 Months of Application Date.....	37
Key Decisions	40
Requests for Access to Documents in the Board's Adjudicative Files	44
Court Activity	44
Key Activities with Stakeholder Groups.....	45
Financial Position	46
Appendix A.....	47
Appendix B.....	49
Accountability Statement	50

Chair's Message

I became Chair of the Ontario Labour Relations Board on February 28, 2022. While my tenure as Chair covers only one full month of the Board's fiscal year April 1, 2021 to March 31, 2022, I am proud to be able to present in the pages that follow a very comprehensive outline of the Board's activities during that fiscal year. I am most grateful to the Board's Registrar and Deputy Registrar – Catherine Gilbert and Ursula Boylan – for their contributions. Of course, if there are any errors in the Report, I'm the person responsible.

The previous eleven Annual Reports were produced by my predecessor Bernard Fishbein who served with great distinction for eleven years as the Board's Chair. During Bernie's tenure, the Board faced many challenges not the least of which was the pandemic which encompassed the last two fiscal years. Under Bernie's strong hands-on leadership, the Board met all of these challenges, continued to thrive and maintained its rightful place as the preeminent labour and employment tribunal in Canada. On behalf of the whole labour relations and employment law community in Ontario, I want to thank Bernie for his outstanding service.

In addition to Bernie, the terms of a number of other Vice Chairs and Members ended during this past fiscal year, namely, Harvey Beresford, Graham Clarke, Robert Salisbury, Lee Shouldice, Yvon Seveny, Carol Phillips and Jawara Gairey. Yvon and Harvey are still with us for a while longer as they finish cases on which they were seized. All of these individuals will be greatly missed. They were excellent colleagues, provided great service and contributed in many different ways to the success of the Board. Five new Vice Chairs were appointed - Jesse Kugler, Lindsay Lawrence, John Martelli, Danna Morrison and Brian Smeenk. All of these excellent individuals have extensive labour relations experience as practicing lawyers and the Board is indeed fortunate to have been able to attract individuals of such caliber. We also saw the return of Andrea Bowker who rejoined the Board as a solicitor after Lindsay Lawrence became a Vice-Chair. Andrea brings with her a wealth of experience, both as a practicing lawyer and as a former Board solicitor.

As a labour law practitioner for many years, I always had the greatest respect for the Board. I saw it as a well-oiled machine that functioned in a very efficient manner. Over the years, I had interactions with many of the Board's personnel – Client Services, Registrar's office, Mediation Services, solicitors and adjudicators. They were always professional in their dealings with me and they did their jobs extremely well. Now that I am the Chair and have had the opportunity to learn more about how the Board operates, my respect for this institution has only grown. My interactions have now expanded to include many departments that clients (lawyers and parties) would never have dealt with but whose work is absolutely essential to the efficient functioning of the Board. In particular, I am referring to: (i) our case processing department that ensures that all of the thousands of files that are dealt with by the Board each year are processed seamlessly from one stage to the next from the initial filing to the ultimate closure; (ii) our Vice Chairs' Assistants who diligently work with our adjudicators to make sure that the thousands of decisions that are rendered each year are all properly prepared and entered before being released to the parties; (iii) our Registrar's Assistants who, among other things, handle the very important task of scheduling and arranging our hearings including by Zoom, and communicating with the parties; (iv) IT staff who oversee the collection of data, develop new systems, update forms and the website and help with IT issues arising at the Board; (v) our administrative personnel who handle so many things for all of us including accounting for the Board's finances, making sure we get paid and ensuring that we have the necessary supplies and equipment to do our jobs properly and finally; (vi) the Executive Assistant to the Chair who manages not only me but our Adjudicative Support Services. In the few short months, I have been at the Board, I cannot say enough about all the people who work at the Board. They are dedicated hard working individuals who make the Board the well-oiled machine it is. I am so proud and privileged to work with everyone at the Board.

The information in the pages that follow speaks for itself. The one observation that I would make is that the Board was busy this past year handling a wide variety of cases and this occurred even though the number of new cases filed with the Board decreased by 32% from the last pre-pandemic year. The biggest drop was in *Employment Standards Act* appeals followed by construction industry grievances and then certification applications. These decreases can be explained in large part by the impact of the pandemic on people generally and the instability in the economy in many sectors. It is expected that, with more people returning to the workplaces coupled with the lifting of mask and vaccination mandates, we will see an upturn in the number of new cases filed this year. Notwithstanding this decrease in new cases filed last year, the decrease in the actual number of hearing days conducted by the Board was only 5%.

The current year will provide a number of new challenges for the Board: What are we going to do with hearings? Do we continue to do video hearings or do we go back to in-person hearings for all cases or some? Do we hold hybrid hearings in some cases? Are some case types more efficiently dealt with through video hearings? What about cases involving parties who are in remote areas of the Province? What do we do about mediations? Do we continue video mediations or do we return to in-person mediations for some or all cases? What about votes? Do we continue with electronic votes or do we go with in-person votes in some cases? What about filings with the Board? These and many other issues will need to be addressed and dealt with in the near future. I believe strongly in regular communication and interaction with the community and we will be reaching out to stakeholders and conducting town halls to get the views of all interested parties before we make decisions. I encourage everyone to get involved and express their views.

I intend to do everything I can to ensure that the Board continues to provide the excellent level of service that the community expects and deserves. I encourage everyone to contact the Board (and me) with your comments, concerns or suggestions. As Bernie always said, I can't promise you that we will agree, but we will certainly listen.

Brian O'Byrne
Chair

Overview

The Ontario Labour Relations Board is an independent adjudicative agency of the Government of Ontario. As a tribunal operating at arm's length from the Ministry of Labour, Training and Skills Development, the OLRB mediates and decides cases under more than 25 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
- *Building Opportunities in the Skilled Trades Act, 2021*, S.O. 2021, c. 28
- *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
- *Government Contract Wages Act, 2018*, S.O., c.92
- *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
- *Tribunal Adjudicative Records Act 2019*, S.O. 2019, c. 7, Sched. 60

As an independent adjudicative tribunal, the Board's mandate is 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 Tribunals 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 ensure the settlement and adjudication of cases before the Board. 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, Training and Skills Development's overarching principles, the Board encourages harmonious relations among employers, employees and trade unions. It acts as expeditiously and fairly as reasonably possible in processing, settling or adjudicating all matters that come before it.

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 *LRA* 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 directions, jurisdictional disputes, the relationship between parent/national/international unions and their subordinates, 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, Training and Skills Development (for wages, overtime, termination or severance pay and various 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 almost all *ESA* matters before the Board. Where mediation is unsuccessful, the Board usually 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 *OHS*A is designed to ensure that every workplace is safe and every worker is protected against injury or harm. Enforcement of the *OHS*A is conducted by health and safety inspectors, who may enter workplaces to inspect or investigate working conditions, equipment and compliance with the Act. Orders (including failure to make orders) or decisions of inspectors can be appealed to the OLRB. This has been particularly significant during the pandemic.

There are also protections for workers who exercise their rights under the *OHS*A 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 sets out the structure for collective bargaining in the education sector. The parties 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 application of 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/or issue other orders as the Board determines are appropriate in the circumstances. The Crown or a party to central bargaining may also 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. The Board has the jurisdiction to hear complaints of alleged violations or failure to comply with the Act or those provisions of the *Labour Relations Act* incorporated into it.

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. The Board also has jurisdiction to deal with certain representation issues that arise under the Act.

Public Sector Labour Relations Transition Act

The *Public Sector Labour Relations Transition Act (PSLRTA)* was passed in 1997 to cover mergers, amalgamations and other restructuring in three public sectors: municipalities and local boards, school boards and hospitals. The OLRB, upon application, holds a consultation with the affected unions and employers to determine if *PSLRTA* applies and what bargaining units and bargaining agents in the new workplace are appropriate. The Board occasionally directs representation votes to determine the successor bargaining agents.

Other Applications

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

Other Tribunals

The Board also has administrative responsibility for a number of other agencies 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 a number of Board Vice-Chairs sit as ERC Members. A Vice-Chair of the Board is the Presiding Officer of the Pay Equity Hearings Tribunal. A number of the Board’s Vice-Chairs and two of its Members are also cross-appointed to the PEHT. Support services for all of these bodies are under the administration of the Director/Registrar.

Overview of Board Processes

Almost all applications that are filed with the Board are 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. In 2021/22, almost 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 review and schedule a consultation or hearing, where one has not already been scheduled. Some cases are sent first for preliminary review to consider whether there is a prima facie case objection or preliminary matter which needs to be decided before scheduling. This may also be done before mediation where appropriate - for example, where it appears the application may have been filed in the wrong jurisdiction.

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. As part of the Board's efficient management of files, case management or teleconference hearings may be scheduled prior to or during a hearing and, in some cases, the Board may determine that a matter can be decided based on written submissions.

To ensure an efficient and expeditious processing of cases, several types of cases are scheduled for a hearing or consultation when they are initially filed with the Board and the hearing date is sent out together with the Board's confirmation of filing. Such cases may include applications for certification/termination in the non-construction sector, unfair labour practices involving the discipline or discharge of alleged union supporters, construction industry grievances, reprisal complaints under OHSA, first contract direction applications and ministerial references. Case Management Hearings are scheduled upon application in all construction certification applications or in some other cases where the parties may request it or the Board deems it appropriate. Pre-hearing consultations and consultations for jurisdictional disputes in the construction industry are scheduled at the time the Board sends out its confirmation of filing.

During the construction open-period, hearings are set at the time of confirmation of the filing of each application ("expedited hearing"). However, this is not the only hearing which is scheduled on an expedited basis. Applications for strike/lockout are heard within a day or two, as circumstances require, and hearings into applications for interim orders may be held within four to six days. Cases involving the discharge of employees are given priority scheduling.

Consultations, case management hearings and hearings (but not mediations) are open to the public, save for exceptional circumstances. 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.

Overview of Board's Activities during the Pandemic

As will be detailed more in later sections, the pandemic caused by COVID-19 necessitated a swift change in the operations of the Board in early April 2020, many of which continued or were revised to meet changing circumstances throughout 2021/22. These include:

- For almost the entire year, all staff worked remotely (with the exception of a few weeks in November/December 2021 when staff were directed to come into the office on a gradual basis). As a result, the Board continued to require all applications, responses and submissions to be filed electronically in order for them to be processed, uploaded and retained in electronic files and accessible to all staff and OICs at the Board. The Board's Rules of Procedure, Information Bulletins, confirmations of filing, notices and website were reviewed on an ongoing basis to ensure that they were up-to-date and met the operational realities and changing circumstances. Parties continued to be permitted to initiate proceedings by email provided that they also filed a form certifying that the email address was operational.
- All applications for certification and termination continued to be permitted to be filed electronically and be accompanied by electronic membership evidence and electronic signatures of employees not wishing to be represented by the union. All representation votes were held electronically in 2021/22.
- Applications for review under the *Employment Standards Act* were processed, and issues of timeliness or payment of money into trust caused specifically by the pandemic were addressed on a case by case basis.
- All mediations were held by video or by phone or email and different methods of executing settlements with electronic signatures were explored and implemented.
- All hearings were held by video hearing. Various procedures to deal with the filing of large volumes of documents through the use of a third party cloud tool (such as Drop Box, Google Drive or Microsoft OneDrive) were revised and further developed. Processes were put in place to streamline interpretation for the video hearings (French language, American Sign Language) and livestreaming hearings of particular public interest on YouTube.
- Front Desk staff continued to take calls remotely and to provide information to the public and stakeholders while the Board's offices were closed to the public.
- A review of all forms with respect to the 2 month triennial Open Period in the construction industry (which commenced March 1, 2022) was carried out to account for the fact that votes would take place electronically and appropriate revisions were made. A notice to the community on this subject was sent out in December 2021 and the Information Bulletin with respect to the Open Period was posted on the website and circulated in January 2022.

Types of Applications Filed

COVID-19 and its deep impact on workplaces resulted in a number of applications under the *Occupational Health and Safety Act* -interim applications, applications for the suspension of an inspector's order, appeals of an inspector's order, and reprisal cases for employees exercising their rights under the *Act*. Additionally, it was the root of many other types of cases. There were 167 applications at the Board in 2021/22 in which COVID was identified as the main source of the litigation. The following is a breakdown of the case types filed:

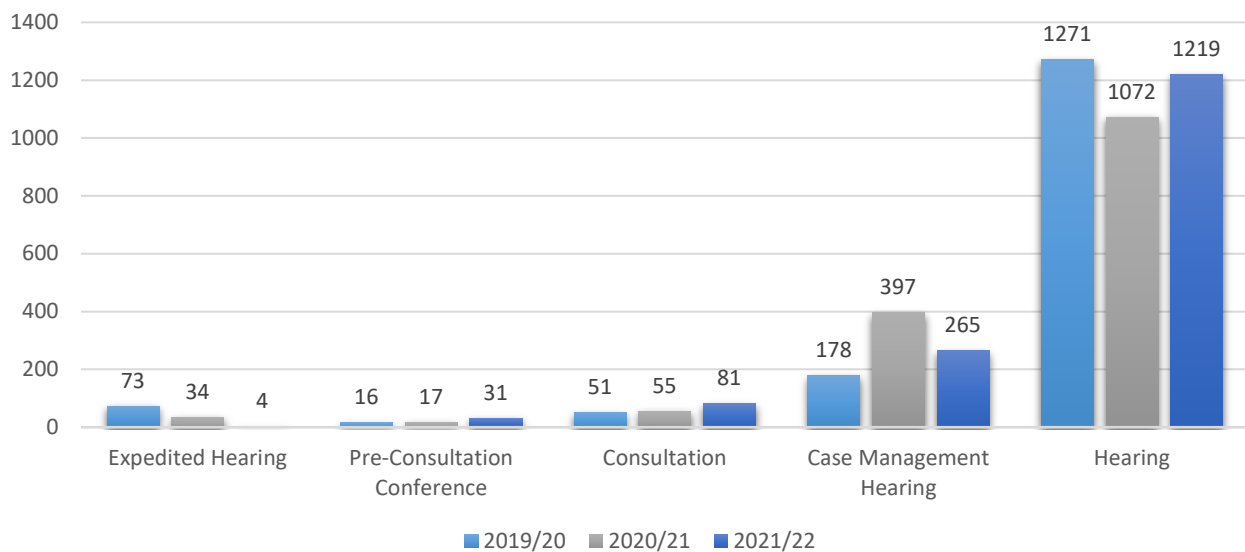
- Health and Safety appeals (including suspensions) - 20
- Reprisal applications - 47
- Employment Standards Appeals - 18
- Unfair Labour Practice complaints (including 58 duty of fair representation complaints) - 63
- Interim applications - 2
- Referrals of Construction Industry grievances - 16
- Sale of business - 1

Of the cases filed in 2020/2021 which were identified as being COVID-related, only 4.3% remain to be determined and closed.

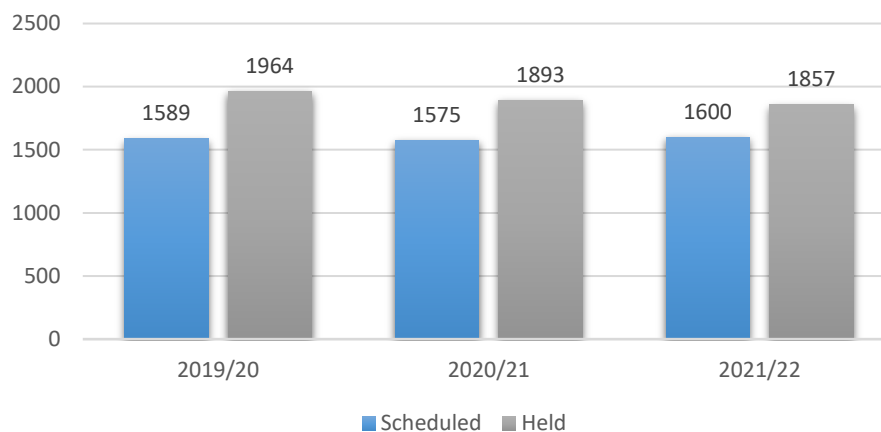
Hearings Scheduled and Held

The Board continued to schedule, mediate and adjudicate cases throughout the year, with very little impact on the number of hearings scheduled and held. As can be seen from the charts below, in 2021/2022 there were 1,600 hearing events scheduled and 1,857 hearings held. This can be compared with 1,575 hearing events scheduled and 1,893 hearings held in 2020/2021 and 1,589 hearing events scheduled and 1,964 hearings held in 2019/2020, before the pandemic.

2019/20, 2020/21 & 2021/22 Hearing Events Scheduled

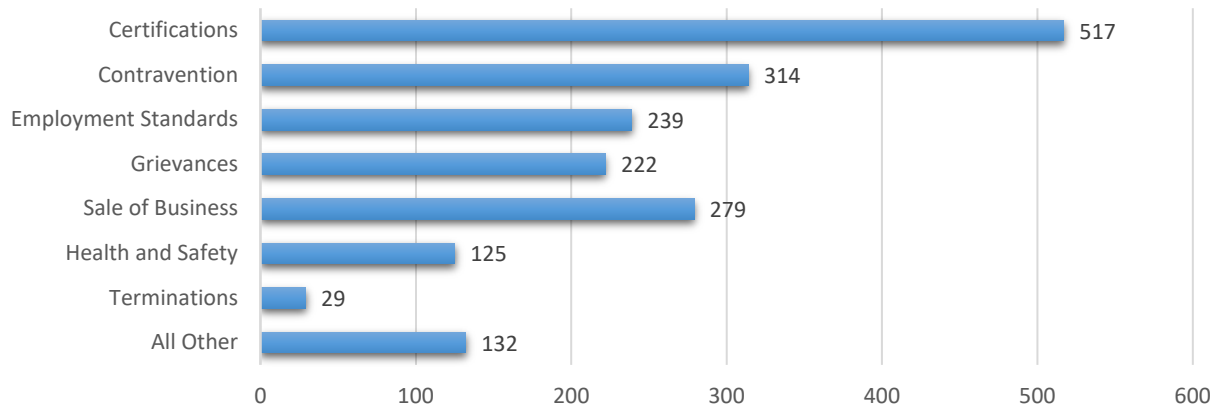


2019/20, 2020/21 & 2021/22 Hearing Events Comparison



*When cases are scheduled for hearing together, this is counted as one hearing scheduled. When the hearings are held together, they are counted separately.

2021/22
Hearing Events Held - By Major Case Type



Organization

Vice Chairs, Members and Staff

The OLRB's operations and staff can be broadly divided into: Adjudication, Administration, Mediation Services and Legal Services.

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 for fixed terms. A chart of the OICs working in 2021/2022 and their appointment terms is attached at Appendix A.

The administrative, mediation and legal staff are public servants appointed under Part III of the Public Service of Ontario Act, 2006. The Board's Organizational Chart is attached at Appendix B.

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 almost all of the Board's cases. In addition to settling cases, Mediators assist parties in identifying issues and streamlining the cases that are adjudicated in order to avoid unnecessary litigation. They also, along with the Board's Vote Officers, carry out the Board's pre-and post-vote mediation program and conduct representation and final offer votes.

Information Technology Support

Services in IT are centralized within the Ministry of Labour, Training and Skills Development and are now provided to the Board by a central help desk. An Analyst and 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.

Key Activities

The Board can be described as engaging in two key activities: Mediation and Adjudication, generally, but not exclusively, in the realm of Labour Relations, Employment Standards, and Occupational Health and Safety. These two core functions are the foundation for the Board's vision of maintaining a reputation for adjudicative and dispute resolution excellence.

The Board's goal is to provide efficient, fair, accessible and modernized services in all areas including case processing, mediation, votes and adjudication in a fiscally responsible manner. In addition to closely monitoring files and processes internally, it uses performance measures and targets to track and focus on outcomes. Performance measures and targets may be revised or developed in the event of legislative changes or a change to Board processes. This may require changes to the Board's electronic case management system to allow for a more refined analysis.

A. Achievement of Performance Measures

1. Program Effectiveness Measures

i. Meeting Legislated Timelines for Industrial Certification Votes

2021/2022 Commitment

- 90% industrial certification votes held within 5-7 days
- 95% held within 10 days
- 5% or less held within more than 10 days

2021/2022 Achievement

- 95.4% of industrial certification votes held within 5-7 days
- 97.7% held within 10 days
- 0.9% held within more than 10 days

ii. Efficient Case Processing

2021/2022 Commitment

- 80% of new files opened within two days after an application is filed in accordance with the Board's Rules of Procedure
- 80% of confirmations of filing of applications sent to parties within four days of application filed in accordance with the Board's Rules of Procedure (except ESA appeals)

2021/2022 Achievement

- 99.2% of new files opened within two days after an application is filed in accordance with the Board's Rules of Procedure
- 90.8% of confirmation of filings of applications sent to parties within four days of application filed in accordance with the Board's Rules of Procedure (except ESA appeals)

iii. Efficient Mediation and Results

Mediation Assignment

2021/2022 Commitment

- 80% of mediator assignments are made within three business days after an application is filed in accordance with the Board's Rules of Procedure

2021/2022 Achievement

- 80% of mediator assignments made within three business days after an application is filed in accordance with the Board's Rules of Procedure

Mediation – Percentage of Cases Resolved without Final Hearing

2021/2022 Commitment

- 80-85% of cases settled without final litigation at the Board
- LRA cases: 85%
- ESA (appeals): 75%
- OHSa (appeals): 75%
- OHSa (reprisal complaints): 75%

2021/2022 Achievement

- 89.8% of all cases settled without final litigation
- LRA cases: 90.5%
- ESA (appeals) cases: 86.3%
- OHSa (appeals) cases: 97.3%
- OHSa (reprisal complaints) cases: 91.4%

iv. Adjudication- Judicial Review

Percentage of decisions upheld:

- 2021/22 Commitment: 90-100%
- 2021/22 Achievement: 80% *

* Leave to appeal from one decision of the Divisional Court granting an application for judicial review decision was granted and the appeal was argued subsequent to the period covered by this report. Accordingly, the ultimate disposition of that judicial review application is pending at the Court of Appeal.

v. Fiscal Measures:

- 2021/22 Commitments: Less than 2% variance between year-end allocation and expenditure.
- 2021/22 Achievements: Actual variance: 0.5%
Approved budget: \$12,098.3M
Actual expenditure: \$12,036.9M

2. Time to Dispose of Cases

The Board continues to analyze and track the time to dispose of cases. Almost 50% of cases were disposed of within approximately 90 calendar days of receipt of application and 64.6% were disposed of within six months (Figure 25). In 2020/2021, 50.4% of cases were disposed of within approximately 90 days, and 52% in 2019/2020. However, these are overall averages and an analysis of various different case types shows that the time to dispose of cases varies considerably depending on the type and complexity of the case. For example, 67% of reprisal cases under the *Occupational Health and Safety Act* were disposed of within three months and 80% within six months. 86% of industrial certification/termination applications were disposed of within 3 months and 89% within six months. The Board has undertaken further analysis of the data in this regard. (See also Figures 25-32)

3. Ombudsman Review

The Ontario Ombudsman has the authority to investigate complaints about the Ontario Government and its agencies, including the Board. There were no new or outstanding investigations in 2021/2022.

B. Information and Privacy Commissioner of Ontario

The Information and Privacy Commissioner of Ontario has the authority to investigate privacy complaints about the Ontario Government and its agencies, including the Board. There were no new investigations by the IPC in 2021/2022 and the outstanding investigation from a complaint made in 2020/2021 was dismissed.

C. Electronic Voting

The Board conducted its first electronic vote in November 2017, 14 electronic votes in 2018/2019 and 40 in 2019/2020. In those years, electronic votes were fairly limited and were ordered in cases where the parties requested it and/or where the workplace in question made electronic voting a more efficient and effective method of allowing employees to vote. In 2020/2021, as a result of the pandemic, the Board switched entirely to electronic votes, and conducted 237 that year.

In 2021/2022, the Board continued to do votes exclusively electronically. In that year, the Board conducted 282 electronic votes, including seven final offer votes and five votes under the *Public Sector Labour Relations Transition Act*. In certification, termination and displacement applications, a total of 11,519 ballots were cast electronically, which includes online and telephone ballots. The average percentage of voter turnout for certification, termination and displacement votes was 90.0%.

In 2021/2022, 95.4% of votes in industrial certification and 97.6% of termination applications were held within seven days. The arranging, establishing and conducting of electronic votes is more time consuming than in-person voting, because the arrangements are more complicated and additional information is required of the parties which was never required before. Board vote officers and mediators manage the electronic voting process and staff the Board's Help Desk, as needed. Despite this, Board staff conducted more votes within seven days as a result of formalizing the processes and becoming more familiar with them during the pandemic year 2021/2022.

The Board received eight requests for final offer votes during the fiscal year, and seven votes were held, all of which were conducted electronically. Over the seven votes there were 1,466 ballots cast, which was a 95.6% voter turnout. Of the seven files disposed of, the employees voted to reject the collective agreement in six cases, and voted in favour of the collective agreement in one case. The eighth request was withdrawn prior to the vote being conducted.

The Board also conducted five votes under the *Public Sector Labour Relations Transition Act*. In total, there were 419 ballots cast in those votes, for an 83.3% voter turnout.

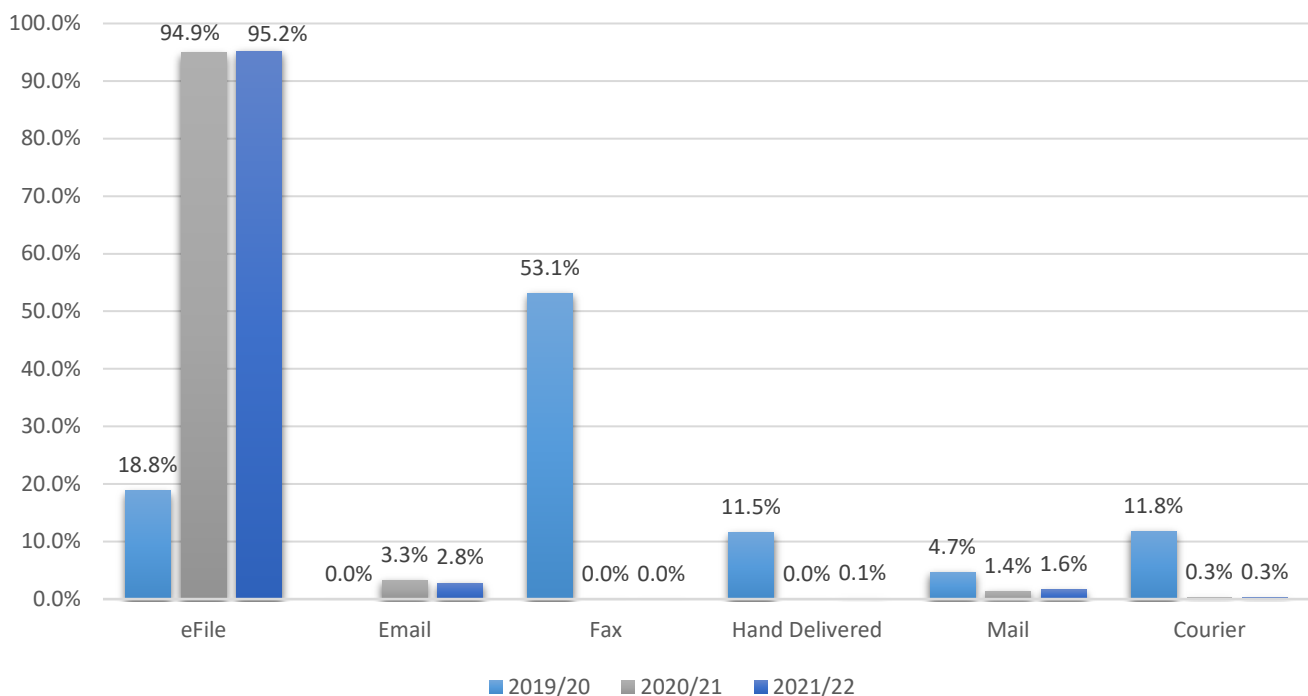
D. IT Initiatives and Electronic Filing System

For almost the entire duration of 2021/2022, the Board's staff and OICs were all required to work remotely, with the exception of a few weeks in the fall 2021. Each staff member and OIC is equipped with a laptop computer, and a VPN.

In response to the pandemic, the Board changed its Rules so that forms and submissions were only permitted to be filed electronically, which remained the case throughout 2021/2022. The Board's electronic forms are available in English and French on the Board's website and are hosted by Ontario Shared Services on its electronic system.

In 2021/2022, 22,843 forms and submissions were filed electronically, accounting for 95.2% of all forms and submissions filed. The remainder were permitted to be filed either by email or mail in response to particular circumstances.

2019/20, 2020/21 & 2021/22 Method of Filing



As described earlier, the Board held its hearings in 2021/2022 by video hearing and on occasion by telephone. There were no in-person hearings at the Board during the year.

In order to allow for these video hearings, documents were filed electronically, often using a third party cloud sharing tool. Processes continued to be developed and updated to facilitate a smooth and orderly video hearing, including an ongoing review of Board hearing notices, information bulletins, and the Rules of Procedure. Where circumstances dictated, the Board livestreamed a number of its hearings on YouTube. In 2021/2022, 4 hearing days were livestreamed on YouTube. Notice of these broadcasts was posted on the Board's website for cases of significant public interest or when a significant number of observers was expected.

Caseload Processing

Case Numbers and Disposition

Overall, the Board received 2413 new applications this year, the second full year since the start of the pandemic. 1424 additional cases remained open from previous years and 104 cases were re-opened*, for a total number of files processed before the Board this year of 3941. (Figures 1 and 2)

Of the 3941 files before the Board, 2578 were disposed of** (with/without a hearing), for example, by final decision, settlement, withdrawal or abandonment and then closed. Consequently, 1363 cases were carried into 2022/2023. This number includes 217 cases which have been adjourned sine die, so there are 1146 active files pending. The Board continues to work toward its goal to increase the number of cases disposed of in a year, and to that end, looks for more efficient ways to case manage, schedule, and deploy its resources.

Almost 50% of the disposed cases were completed within approximately 90 calendar days of application receipt and 64.6% were completed within six months (Figure 23).

The following pages and charts deal with the processing of cases by individual category and in greater detail.

*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

	Total Received	Re-Opened	Pending April 1, 2021	Total Caseload	Total Closed	Granted / Partially	Dismissed	Terminated	Settled, Withdrawn, Abandoned	Advice Provided	Work Assignment Altered	Not Processed	Pending	Sine Die	Pending March 31, 2022	Total Pending + Sine Die
Accreditation (Construction)	6	0	0	6	4	2	0	0	0	0	0	0	2	0	2	2
Certification	477	11	206	694	457	306	48	4	92	0	0	0	7	24	213	237
Certification (Construction - Card Based)	230	3	144	377	227	143	18	2	61	0	0	0	3	21	129	150
Certification (Construction - Open Period)	17	0	1	18	1	1	0	0	0	0	0	0	0	0	17	17
Certification (Construction)	17	0	23	40	17	8	4	0	3	0	0	0	2	0	23	23
Certification (Industrial)	213	8	38	259	212	154	26	2	28	0	0	0	2	3	44	47
College Collective Bargaining Act	6	0	3	9	5	4	0	0	1	0	0	0	0	1	3	4
Certification	0	0	1	1	0	0	0	0	0	0	0	0	0	0	1	1
College Vote	3	0	0	3	3	3	0	0	0	0	0	0	0	0	0	0
Violation of Colleges Collective Bargaining Act	3	0	2	5	2	1	0	0	1	0	0	0	0	1	2	3
Construction Grievance	486	44	292	822	583	86	15	4	418	2	0	0	58	92	147	239
Employment Protection for Foreign Nationals	7	0	6	13	10	0	1	0	9	0	0	0	0	0	3	3
Employment Standards	458	22	267	747	524	35	63	51	372	2	0	1	0	9	214	223
Appeal (Director)	27	6	21	54	41	1	11	4	25	0	0	0	0	0	13	13
Appeal (Employee)	181	3	105	289	201	7	27	14	152	1	0	0	0	6	82	88
Appeal (Employer)	248	13	140	401	281	27	25	32	195	1	0	1	0	3	117	120
Referral under Employment Standards Act	2	0	1	3	1	0	0	1	0	0	0	0	0	0	2	2
Essential Services	2	0	1	3	3	2	0	0	1	0	0	0	0	0	0	0
Essential Services Agreement - Ambulance	2	0	1	3	3	2	0	0	1	0	0	0	0	0	0	0
Health & Safety Appeals	62	3	87	152	75	0	4	1	70	0	0	0	0	25	52	77
Appeal of Inspector's Order	53	2	87	142	70	0	2	1	67	0	0	0	0	23	49	72
Suspension of Order	9	1	0	10	5	0	2	0	3	0	0	0	0	2	3	5
Interim Order	19	0	4	23	21	2	6	0	13	0	0	0	0	1	1	2
Jurisdictional Dispute	51	2	48	101	55	3	5	3	42	0	2	0	0	3	43	46
Jurisdictional Dispute (Construction)	48	2	47	97	54	3	5	3	41	0	2	0	0	3	40	43
Jurisdictional Dispute (Industrial)	3	0	1	4	1	0	0	0	1	0	0	0	0	0	3	3
Ministerial Referrals	7	0	6	13	6	2	0	0	4	0	0	0	0	2	5	7
Ministerial Referral (General)	6	0	4	10	5	2	0	0	3	0	0	0	0	2	3	5
Ministerial Referral (HLDAA)	1	0	2	3	1	0	0	0	1	0	0	0	0	0	2	2
Public Sector Labour Relations Transition Act	6	0	3	9	5	2	0	0	2	1	0	0	0	0	4	4
PSLRTA (Bargaining Units/Bargaining Agents)	6	0	3	9	5	2	0	0	2	1	0	0	0	0	4	4
Sale of Business/Related Employer	93	9	111	213	88	28	7	2	47	0	0	0	4	12	113	125
School Boards Application	0	0	1	1	1	0	0	0	1	0	0	0	0	0	0	0
Termination	71	2	20	93	73	26	27	10	9	0	0	0	1	2	18	20
Termination (Construction)	5	0	1	6	5	0	4	0	1	0	0	0	0	0	1	1
Termination (Construction - Open Period)	6	1	8	15	10	0	8	0	2	0	0	0	0	0	5	5
Termination (Industrial)	53	1	3	57	52	25	14	10	3	0	0	0	0	0	5	5
Non-Construction Employer - Termination	1	0	1	2	1	0	0	0	0	0	0	0	1	0	1	1
Termination - Other (Non Vote-Based)	6	0	7	13	5	1	1	0	3	0	0	0	0	2	6	8
Unfair Labour Practices	432	8	273	713	426	11	90	26	285	0	0	2	12	29	258	287
Duty of Fair Referral	2	0	2	4	1	0	1	0	0	0	0	0	0	0	3	3
Duty of Fair Representation	220	3	63	286	184	1	69	20	90	0	0	2	2	6	96	102
Failure to Comply with Settlement	9	1	10	20	10	0	2	2	6	0	0	0	0	0	10	10
Unfair Labour Practice	185	4	184	373	207	10	15	4	169	0	0	0	9	20	146	166
Unfair Labour Practice (Bad Faith)	9	0	14	23	20	0	1	0	18	0	0	0	1	0	3	3
Unlawful Lockout	2	0	0	2	0	0	0	0	0	0	0	0	0	2	0	2
Unlawful Strike	5	0	0	5	4	0	2	0	2	0	0	0	0	1	0	1
Unlawful Reprisals	198	3	73	274	203	2	26	8	164	1	0	0	2	13	58	71
Health and Safety - Inspector Referral	3	0	1	4	3	0	0	0	3	0	0	0	0	1	0	1
Health and Safety Reprisal	189	3	70	262	194	2	24	8	157	1	0	0	2	12	56	68
Reprisal - Long Term-Care Homes Act	0	0	1	1	0	0	0	0	0	0	0	0	0	0	1	1
Reprisal - Public Service of Ontario Act	3	0	1	4	3	0	1	0	2	0	0	0	0	0	1	1
Reprisal - Environmental Bill of Rights Act	1	0	0	1	1	0	0	0	1	0	0	0	0	0	0	0
Reprisal - Environmental Protection Act	1	0	0	1	1	0	0	0	1	0	0	0	0	0	0	0
Reprisal - Public Inquiries Act	1	0	0	1	1	0	1	0	0	0	0	0	0	0	0	0
Votes	8	0	4	12	12	11	0	0	1	0	0	0	0	0	0	0
Last Offer Vote	8	0	4	12	12	11	0	0	1	0	0	0	0	0	0	0
Misc.	24	0	19	43	27	12	2	2	11	0	0	0	0	4	12	16
Early Termination of Collective Agreement	7	0	0	7	7	6	1	0	0	0	0	0	0	0	0	0
Employee Status	1	0	3	4	2	0	0	0	2	0	0	0	0	0	2	2
Failure to Furnish Financial Statement	1	0	2	3	3	0	0	2	1	0	0	0	0	0	0	0
First Agreement Direction	8	0	8	16	9	4	0	0	5	0	0	0	0	4	3	7
Inadequate Financial Statement	1	0	1	2	2	0	1	0	1	0	0	0	0	0	0	0
Project Agreement	1	0	1	2	1	0	0	0	1	0	0	0	0	0	1	1
Religious Exemption	0	0	1	1	1	0	0	0	1	0	0	0	0	0	0	0
Sector Dispute (Construction)	2	0	2	4	0	0	0	0	0	0	0	0	0	0	4	4
Successor Trade Union	3	0	1	4	2	2	0	0	0	0	0	0	0	0	2	2

Figure 1

Applications Received and Disposed of - 5 Year Comparison

Fiscal Years 2017-18 to 2021-22	Number Received, Fiscal Year						Number Disposed of, Fiscal Year					
	Total	2017-18	2018-19	2019-20	2020-21	2021-22	Total	2017-18	2018-19	2019-20	2020-21	2021-22
Type of Case	16,296	3,507	3,930	3,571	2,875	2,413	18,216	4,681	4,098	3,804	3,055	2,578
Accreditation (Construction)	22	7	7	2	-	6	27	8	8	5	2	4
Breach of Settlement under section 105 or 141 of PSOA	1	-	1	-	-	-	1	-	1	-	-	-
Certification	2,882	649	641	617	498	477	3,664	1,228	768	674	537	457
College Vote	6	2	1	-	-	3	6	2	-	1	-	3
Consent to Institute Prosecution	4	2	1	1	-	-	4	1	1	1	1	-
Construction Grievance	3,419	843	769	679	642	486	4,001	1,191	827	704	696	583
Duty of Fair Referral	17	2	6	5	2	2	21	8	3	7	2	1
Duty of Fair Representation	973	201	197	225	130	220	1,024	223	220	233	164	184
Early Termination of Collective Agreement	36	7	5	12	5	7	39	10	5	12	5	7
Employee Status	18	5	6	3	3	1	20	6	3	7	2	2
Employment Standards (Appeal)	4,249	829	1,189	1,067	706	458	4,417	766	1,170	1,168	789	524
Essential Services - Crown Employees	0	-	-	-	-	-	4	-	4	-	-	-
Essential Services Agreement - Ambulance	16	4	4	4	2	2	13	4	-	4	2	3
Failure to Comply with Settlement	71	18	17	17	10	9	78	24	15	20	9	10
Failure to Furnish Financial Statement	9	1	2	3	2	1	12	3	1	2	3	3
First Agreement Direction	53	6	18	5	16	8	53	11	18	3	12	9
Foreign Nationals - Appeal	19	-	2	3	7	7	17	1	1	4	1	10
Health and Safety - Appeals	392	63	65	72	130	62	372	64	64	56	113	75
Health and Safety - Inspector Referrals	63	25	18	14	3	3	69	29	18	14	5	3
Health and Safety - Reprisals	1,165	206	278	278	214	189	1,203	247	259	281	222	194
Inadequate Financial Statement	4	-	1	-	2	1	4	-	-	1	1	2
Interim Order	123	27	34	16	27	19	124	27	34	16	26	21
Jurisdictional Dispute	231	53	40	41	46	51	269	82	48	44	40	55
Last Offer Vote	53	14	15	8	8	8	60	17	19	5	7	12
List of Employees	69	16	53	-	-	-	73	10	63	-	-	-
Ministerial Referrals	42	5	8	12	10	7	38	6	8	10	8	6
Ontario College of Trades	2	1	1	-	-	-	2	-	2	-	-	-
Project Agreement	8	3	1	3	-	1	10	3	3	2	1	1
Public Sector Labour Relations Transition Act	37	12	7	8	4	6	49	14	13	13	4	5
Religious Exemption	3	-	-	2	1	-	3	-	-	2	-	1
Reprisal - Environmental Bill of Rights Act	3	-	1	1	-	1	3	-	1	1	-	1
Reprisal - Environmental Protection Act	1	-	-	-	-	1	2	1	-	-	-	1
Reprisal - Long Term-Care Homes Act	4	-	1	1	2	-	3	-	1	1	1	-
Reprisal - Public Inquiries Act	2	-	-	1	-	1	2	-	-	1	-	1
Reprisal - Public Service of Ontario Act	7	-	-	1	3	3	6	-	-	1	2	3
Reprisal - Retirement Homes Act	1	-	1	-	-	-	1	-	1	-	-	-
Review of Structure of Bargaining Units	15	2	13	-	-	-	15	1	11	3	-	-
Right of Access	2	-	-	1	1	-	3	-	-	1	2	-
Sale of Business/Related Employer	589	155	130	96	115	93	621	177	130	111	115	88
School Boards Collective Bargaining Act	5	-	-	3	2	-	5	-	-	3	1	1
Sector Dispute (Construction)	13	1	6	2	2	2	11	2	3	3	3	0
Successor Trade Union	8	1	2	1	1	3	7	1	3	1	-	2
Termination	389	52	88	111	67	71	428	88	79	114	74	73
Unfair Labour Practice	1,211	281	286	243	207	194	1,365	401	279	262	196	227
Unlawful Lockout	6	2	1	-	1	2	6	3	1	1	1	-
Unlawful Strike	44	11	13	10	5	5	44	11	12	10	7	4
Violation of Colleges Collective Bargaining Act	9	1	1	3	1	3	17	11	1	2	1	2

Figure 2

The majority of cases filed in 2021/2022 fall under five main categories:

1. Under the *Labour Relations Act*, Certification and Termination of bargaining rights - 477 applications for certification and 71 applications for termination of bargaining rights;
2. Contraventions of the *LRA* -432, the *Colleges Collective Bargaining Act* -3;
3. Under the *LRA*, Referrals of Construction Industry Grievances – 486;
4. Under the *ESA*, Appeals of decisions of Employment Standards Officers – 458;
5. Under the *OHSA*, Complaints under s. 50 -192 and Appeals of Inspector's orders/suspension applications -62

The total number of applications for certification and termination of bargaining rights was 548, a decrease from last year by 17 applications. There were 213 industrial certification applications filed as compared to 216 in 2020/2021. (Figures 2 and 5)

Complaints of the contravention of the *Labour Relations Act* (section 96) increased by 77 applications, an increase which is mostly accounted for by a significant increase in the number of duty of fair representation applications filed against trade unions by their members

The number of construction grievances filed (486) was down from last year by 156 (a decrease of 24.3%) and is again the lowest number in the last 5 years. (Figures 2 and 11)

The number of *Employment Standards Act* appeals received in 2021/2022 was 458, a decrease of 248 from 2020/2021. The total number of ESA files received is the lowest number in the last 5 years. (Figures 2 and 14)

Complaints under the *Occupational Health and Safety Act* with respect to reprisals in the workplace decreased by 25 from 217 in 2020/2021 to 192 in 2021/2022 (Figures 2 and 18). Of the 192 applications filed this year, three were referred by inspectors (Figure 1 and 17). Appeals (including suspension applications) of health and safety inspectors' orders, which had increased over 80% in 2020/2021 to 130, dropped to 62, a number comparable to pre-pandemic years. (Figure 16) Further analysis of these and other individual case types may be found in sections of this Report which follow.

Cases Resolved Without a Final Hearing

Mediators are assigned to most applications filed with the Board and the majority of all files disposed of are resolved without the need for litigation at a final hearing before the Board. This past year, 89.8% 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
	2,559	2,299	89.8%	260
Certification	457	412	90.2%	45
Certification (Construction - Card Based)	227	196	86.3%	31
Certification (Construction - Open Period)	1	1	100.0%	0
Certification (Construction)	17	13	76.5%	4
Certification (Industrial)	212	202	95.3%	10
College Collective Bargaining Act	2	1	50.0%	1
Violation of Colleges Collective Bargaining Act	2	1	50.0%	1
Construction Grievance	583	541	92.8%	42
Employment Protection for Foreign Nationals	10	9	90.0%	1
Employment Standards	524	452	86.3%	72
Appeal (Director)	41	37	90.2%	4
Appeal (Employee)	201	174	86.6%	27
Appeal (Employer)	281	240	85.4%	41
Referral under Employment Standards Act	1	1	100.0%	0
Essential Services	3	2	66.7%	1
Health & Safety Appeals & Suspension Requests	75	73	97.3%	2
Interim Order	21	16	76.2%	5
Jurisdictional Dispute	55	45	81.8%	10
Jurisdictional Dispute (Construction)	54	44	81.5%	10
Jurisdictional Dispute (Industrial)	1	1	100.0%	0
Ministerial Referrals	6	4	66.7%	2
Ministerial Referral (General)	5	3	60.0%	2
Ministerial Referral (HLDAA)	1	1	100.0%	0
Public Sector Labour Relations Transition Act	5	4	80.0%	1
Sale of Business/Related Employer	88	70	79.5%	18
School Boards Collective Bargaining Act	1	1	100.0%	0
Termination	73	70	95.9%	3
Termination (Construction)	5	4	80.0%	1
Termination (Construction - Open Period)	10	10	100.0%	0
Termination (Industrial)	52	51	98.1%	1
Non-Construction Employer - Termination	1	1	100.0%	0
Termination - Other (Non Vote-Based)	5	4	80.0%	1
Unfair Labour Practices	426	390	91.5%	36
Duty of Fair Referral	1	1	100.0%	0
Duty of Fair Representation	184	169	91.8%	15
Failure to Comply with Settlement	10	10	100.0%	0
Unfair Labour Practice	207	189	91.3%	18
Unfair Labour Practice (Bad Faith)	20	19	95.0%	1
Unlawful Strike	4	2	50.0%	2
Unlawful Reprisals	203	186	91.6%	17
Health and Safety - Inspector Referral	3	3	100.0%	0
Health and Safety Reprisal	194	177	91.2%	17
Reprisal – Public Service of Ontario Act	3	3	100.0%	0
Reprisal - Environmental Bill of Rights Act	1	1	100.0%	0
Reprisal - Environmental Protection Act	1	1	100.0%	0
Reprisal - Public Inquiries Act	1	1	100.0%	0
Misc.	27	23	85.2%	4
Early Termination of Collective Agreement	7	7	100.0%	0
Employee Status	2	2	100.0%	0
Failure to Furnish Financial Statement	3	3	100.0%	0
First Agreement Direction	9	5	55.6%	4
Inadequate Financial Statement	2	2	100.0%	0
Project Agreement	1	1	100.0%	0
Religious Exemption	1	1	100.0%	0
Successor Trade Union	2	2	100.0%	0

Figure 3

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

Applications Received in 2021/2022

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. 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 477 applications for certification. These are broken down as follows: 230 construction card-based certification applications (down 36 from 266 the previous year), 17 vote-based construction certification applications (up 1 from the previous year), and 17 applications filed in the Construction Open period in March 2022. (Figures 1 and 4) The number of non-construction certification applications received was 213, which is almost the same as the previous year, which was 216. (Figure 5)

The Board received a total of 71 applications for termination of bargaining rights, 4 more than the previous year.

	Total Received	Re-Opened	Pending April 1, 2021	Total Caseload	Total Closed	Granted / Partially	Dismissed	Terminated	Settled, Withdrawn, Abandoned	Pending	Sine Die	Pending March 31, 2022	Total Pending + Sine Die
Certification	548	13	226	787	530	332	75	14	101	8	26	231	257
Certification	477	11	206	694	457	306	48	4	92	7	24	213	237
Certification (Construction - Card Based)	230	3	144	377	227	143	18	2	61	3	21	129	150
Certification (Construction - Open Period)	17	0	1	18	1	1	0	0	0	0	0	17	17
Certification (Construction)	17	0	23	40	17	8	4	0	3	2	0	23	23
Certification (Industrial)	213	8	38	259	212	154	26	2	28	2	3	44	47
Termination	71	2	20	93	73	26	27	10	9	1	2	18	20
Termination (Construction)	5	0	1	6	5	0	4	0	1	0	0	1	1
Termination (Construction - Open Period)	6	1	8	15	10	0	8	0	2	0	0	5	5
Termination (Industrial)	53	1	3	57	52	25	14	10	3	0	0	5	5
Non-Construction Employer - Termination	1	0	1	2	1	0	0	0	0	1	0	1	1
Termination - Other (Non Vote-Based)	6	0	7	13	5	1	1	0	3	0	2	6	8

Figure 4

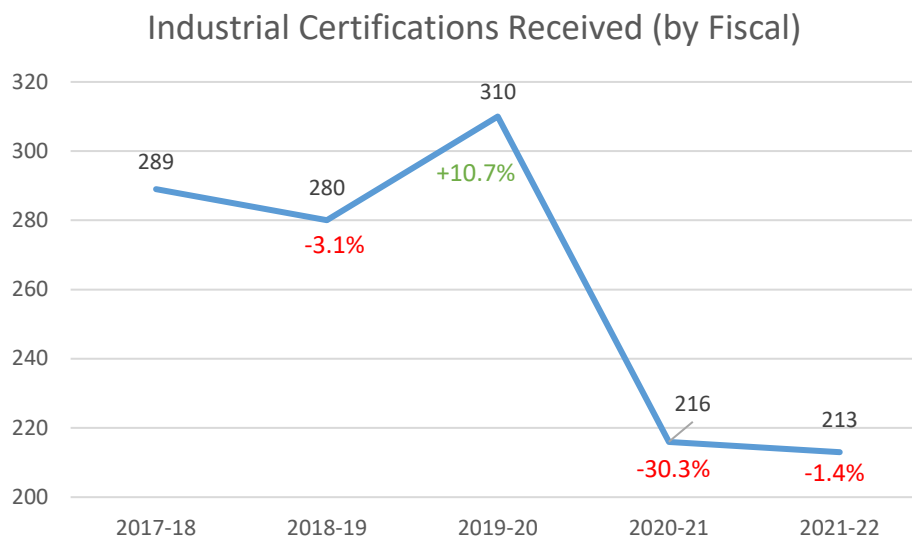


Figure 5

Vote Activity in 2021/2022

In 2021/2022, the Board held a total of 267 votes in applications for certification and termination/displacement, up 39 from 2020/2021. All votes were held electronically as a result of the pandemic. Board mediators and Vote Officers are trained to staff the Help Desk required for electronic votes. There were 11,519 ballots cast in these certification/termination votes. Overall, the average voter turnout was 90.0% in these files, which is approximately the same as the year previous.

Over 95% of all non-construction certification votes were held within seven days and 97.6% of non-construction-termination applications were held within seven days of application. (Figure 6)**

Number of Days	Certification						Termination					
	Total		Industrial		Construction		Total		Industrial		Construction	
	Cases	% of	Cases	% of	Cases	% of	Cases	% of	Cases	% of	Cases	% of
	240		216		24		50		42		8	
< 5	0	0.0%	0	0.0%	0	0.0%	2	4.0%	1	2.4%	1	12.5%
5	52	21.7%	50	23.1%	2	8.3%	22	52.0%	20	50.0%	2	37.5%
6	146	82.5%	140	88.0%	6	33.3%	19	86.0%	18	92.9%	1	50.0%
7	25	92.9%	16	95.4%	9	70.8%	3	92.0%	2	97.6%	1	62.5%
8	10	97.1%	4	97.2%	6	95.8%	3	98.0%	1	100.0%	2	87.5%
9	1	97.5%	1	97.7%	0	95.8%	0	98.0%	0	100.0%	0	87.5%
10	0	97.5%	0	97.7%	0	95.8%	1	100.0%	0	100.0%	1	100.0%
11-15	3	98.8%	3	99.1%	0	95.8%	0	100.0%	0	100.0%	0	100.0%
16-20	0	98.8%	0	99.1%	0	95.8%	0	100.0%	0	100.0%	0	100.0%
21+	3	100.0%	2	100.0%	1	100.0%	0	100.0%	0	100.0%	0	100.0%

Figure 6

*Under the Board's Rules of Procedure, construction certification applications may be delivered to the employer two days after the date of application. In those cases, where the application was filed under section 8 of the *Labour Relations Act*, the vote occurs five days after delivery to the employer and where the application was filed under section 128.1 of the *Labour Relations Act* a vote occurs after the Board conducts a hearing and determines the composition of the bargaining unit.

**The cumulative number in non-construction certification and termination votes includes electronic votes, applications in which a second vote was later held on agreement of the parties or by order of the Board or where the Board directed submissions before the ordering of a vote.

Vote Analysis - Certification and Termination Files Closed in 2021/2022

Of cases disposed of during 2021/2022, the majority of certification applications were successful. Twenty-six applications for termination were granted and 27 were dismissed. (Figure 4)

In the certification and termination applications that were disposed of during 2021/2022, overall voter turnout was approximately 80% in certification applications and just over 90% in termination applications. (Figure 7).

Case Type	Votes	Employees on Employer's List	Votes Cast	Voter Turnout (%)
Total Certification Votes	177	7,153	5,694	79.6%
Construction	10	138	126	91.3%
Industrial	167	7,015	5,568	79.4%
Total Termination Votes	24	624	565	90.5%
Construction	3	8	8	100.0%
Industrial	21	616	557	90.4%
Total Displacement Votes	27	2,088	1,445	69.2%
Construction	7	85	83	97.6%
Industrial	20	2,003	1,362	68.0%

Figure 7

Of the 305 cases in which certificates were issued, 174 bargaining units were composed of 2 - 9 employees (135 of those were in the construction industry), and at the other extreme 2 were bargaining units of over 200 employees (only in the industrial setting) (Figure 8).

Employees	Total		Construction		Industrial	
	Cases	Employees	Cases	Employees	Cases	Employees
Total:	305	7,125	155	890	150	6,235
2-9	174	766	135	555	39	211
10-19	46	568	15	138	31	430
20-39	32	903	4	106	28	797
40-99	42	2,693	1	91	41	2,602
100-199	9	1,251	-	-	9	1,251
200-499	1	400	-	-	1	400
500 +	1	544	-	-	1	544

Figure 8

Of the non-construction certification applications, the majority related to the broader public sector, service and non-manufacturing industries (Figure 9).

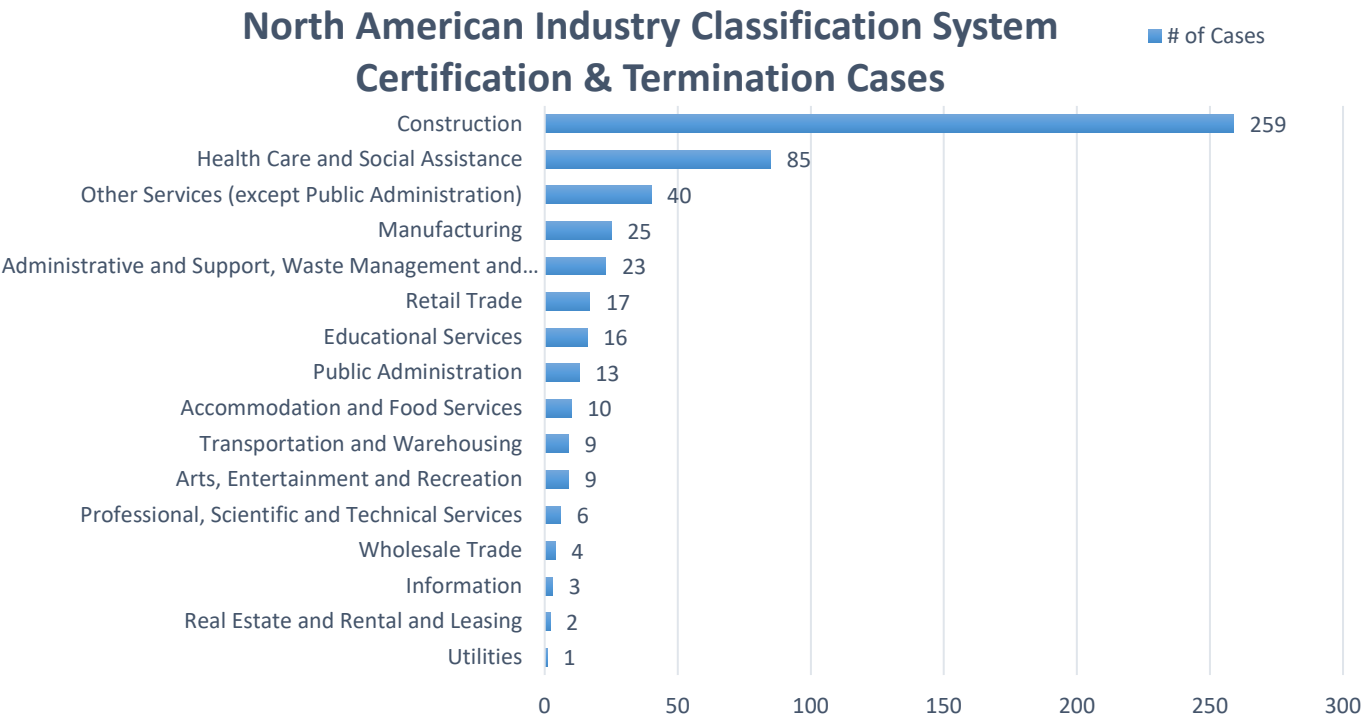


Figure 9

Contravention of the *Labour Relations Act*

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

In 2021/2022, the Board received 432 unfair labour practice complaints under the *LRA*. In complaints against employers, the principal allegations can include illegal discharge of or discrimination against employees for union activity in violation of sections 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 allegations are often made in connection with applications for certification. The principal complaint against trade unions is the alleged failure to represent employees fairly in grievances against their employer. Of 426 files closed on a final basis, 91.5% were resolved without a final hearing (Figure 3 and 10).

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 222, which is 90 more than the previous year. Of 184 individual duty of fair representation files closed, almost 92% were resolved without a final hearing (Figure 3). Only 15 of duty of fair representation applications proceeded to a final consultation/hearing (Figure 3).

Declaration/Direction of Unlawful Strike/Lock-out

In 2021/2022, the Board received five applications seeking a declaration under section 100 regarding an alleged unlawful strike by employees. Two cases settled without a final hearing and two were dismissed. (Figure 10)

The Board received 2 applications for a declaration under section 101 regarding an alleged unlawful lock-out by an employer in 2021/2022, both of which were adjourned sine die (Figure 10).

	Total Received	Re-Opened	Pending April 1, 2021	Total Caseload	Total Closed	Granted / Partially	Dismissed	Terminated	Settled, Withdrawn, Abandoned	Not Processed	Pending	Sine Die	Pending March 31, 2022	Total Pending + Sine Die
Unfair Labour Practices	432	8	273	713	426	11	90	26	285	2	12	29	258	287
Duty of Fair Referral	2	0	2	4	1	0	1	0	0	0	0	0	3	3
Duty of Fair Representation	220	3	63	286	184	1	69	20	90	2	2	6	96	102
Failure to Comply with Settlement	9	1	10	20	10	0	2	2	6	0	0	0	10	10
Unfair Labour Practice	185	4	184	373	207	10	15	4	169	0	9	20	146	166
Unfair Labour Practice (Bad Faith)	9	0	14	23	20	0	1	0	18	0	1	0	3	3
Unlawful Lockout	2	0	0	2	0	0	0	0	0	0	0	2	0	2
Unlawful Strike	5	0	0	5	4	0	2	0	2	0	0	1	0	1

Figure 10

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 *LRA*.

In 2021/2022 the Board received 486 cases under this section (Figure 1), which is again lower than the previous year. (Figure 11). The principal issues in these grievances are 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.

A filing fee of \$250.00 must accompany a grievance referral or a Notice of Intent to Defend. In order to participate in a Case Management Hearing or a hearing, each party must pay a hearing fee for each day (or part of a day). In July 2020, after the pandemic started, the Board developed a new form for online payment for case management hearings and grievance hearings (which had normally been made in person). This form was filed 654 times in 2021/2022.

Of the 583 grievance referrals closed, almost 93% were resolved without a final hearing. (Figure 3).

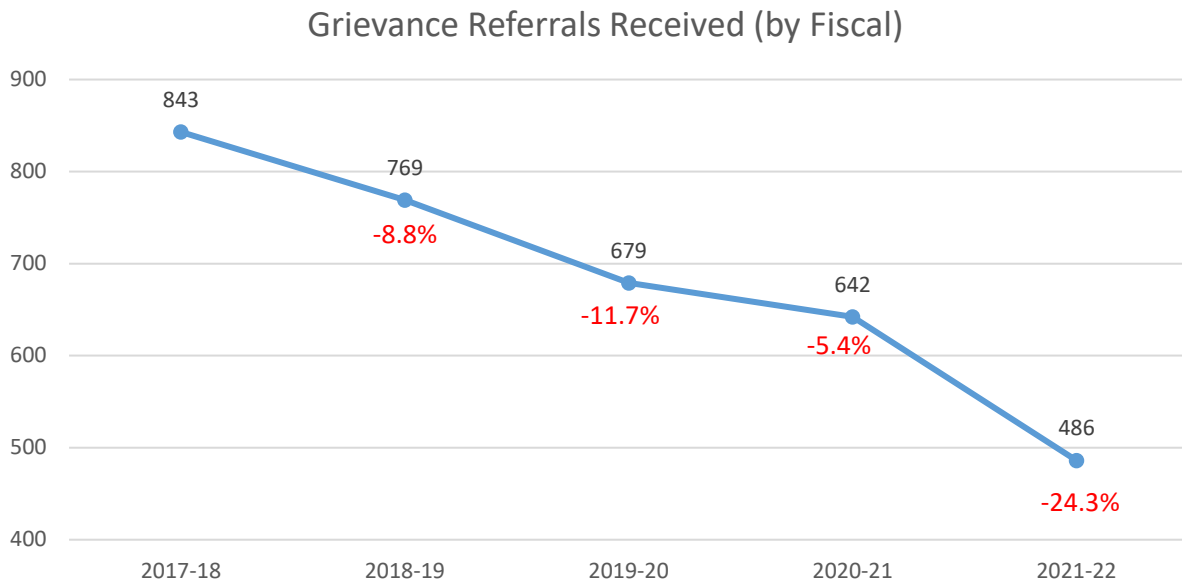


Figure 11

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. As a result of the pandemic, the Board has frequently been asked by both employees and employers to exercise its discretion to extend timelines for filing applications for review of Employment Standards Officers' decisions under the *Employment Standards Act*. The Board considers the requests and the circumstances giving rise to them, and exercises its discretion to extend the time limits when there is a specific and compelling reason to do so. An extension of the time limits is often requested by employers who needed extra time to put money in trust in order to initiate an application for review, because of financial issues resulting from the pandemic, and by unrepresented employees who encountered a variety of difficulties resulting from the pandemic which lead them to file outside the time limits.

The Board received 458 cases in 2021/2022 which is 35.1% fewer than in 2020/2021. The Board dealt with 747 cases during 2021/2022, which includes the 458 new cases filed, 267 cases from the previous year and 22 re-opened files. 86.3% were resolved without a hearing and 72 cases went to a final hearing (Figure 3). Of the appeals received, 54% were filed by the employer which is comparable to last year (53%) and down from 62% in 2019/2020 and 70% the year before that. (Figure 13)

	Total Received	Re-Opened	Pending April 1, 2021	Total Caseload	Total Closed	Granted / Partially	Dismissed	Terminated	Settled, Withdrawn, Abandoned	Advice Provided	Not Processed	Sine Die	Pending March 31, 2022	Total Pending + Sine Die
Employment Standards	458	22	267	747	524	35	63	51	372	2	1	9	214	223
Appeal (Director)	27	6	21	54	41	1	11	4	25	0	0	0	13	13
Appeal (Employee)	181	3	105	289	201	7	27	14	152	1	0	6	82	88
Appeal (Employer)	248	13	140	401	281	27	25	32	195	1	1	3	117	120
Referral under Employment Standards Act	2	0	1	3	1	0	0	1	0	0	0	0	2	2

Figure 12

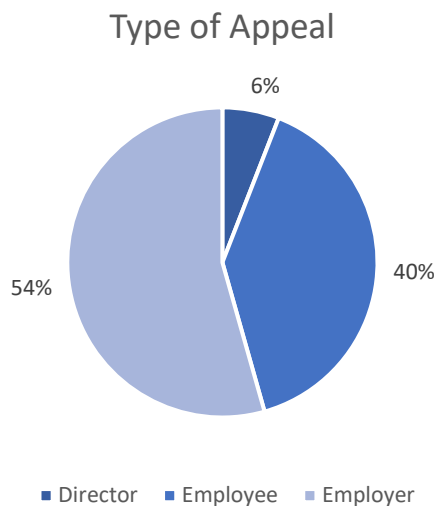


Figure 13

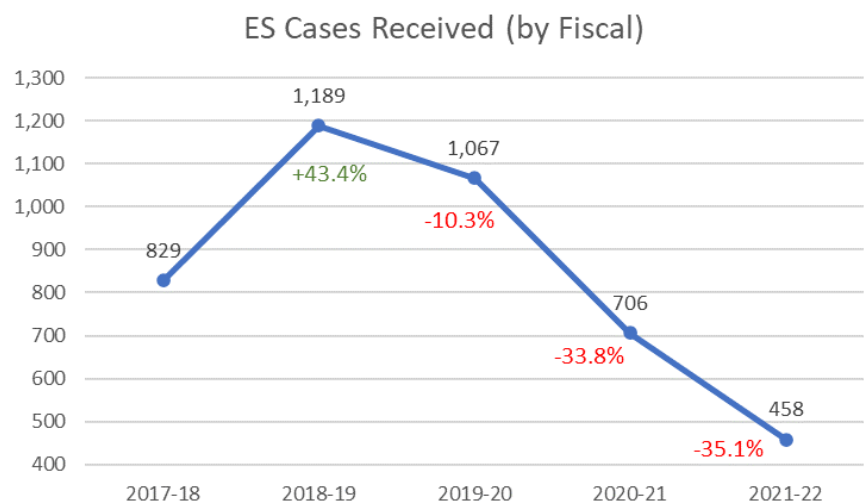


Figure 14

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 *OHS Act* are investigated by health and safety inspectors from the Ministry of Labour, Training and Skills Development; orders or decisions of inspectors are the subject of appeals to the Ontario Labour Relations Board.

There were 62 appeals filed in 2021/2022 (including suspension requests). Of 75 individual files closed, 97.3% were resolved prior to a final hearing (Figure 3).

	Total Received	Re-Opened	Pending April 1, 2021	Total Caseload	Total Closed	Granted / Partially	Dismissed	Terminated	Settled, Withdrawn, Abandoned	Sine Die	Pending March 31, 2022	Total Pending + Sine Die
Health & Safety Appeals	62	3	87	152	75	0	4	1	70	25	52	77
Appeal of Inspector's Order	53	2	87	142	70	0	2	1	67	23	49	72
Suspension of Order	9	1	0	10	5	0	2	0	3	2	3	5

Figure 15

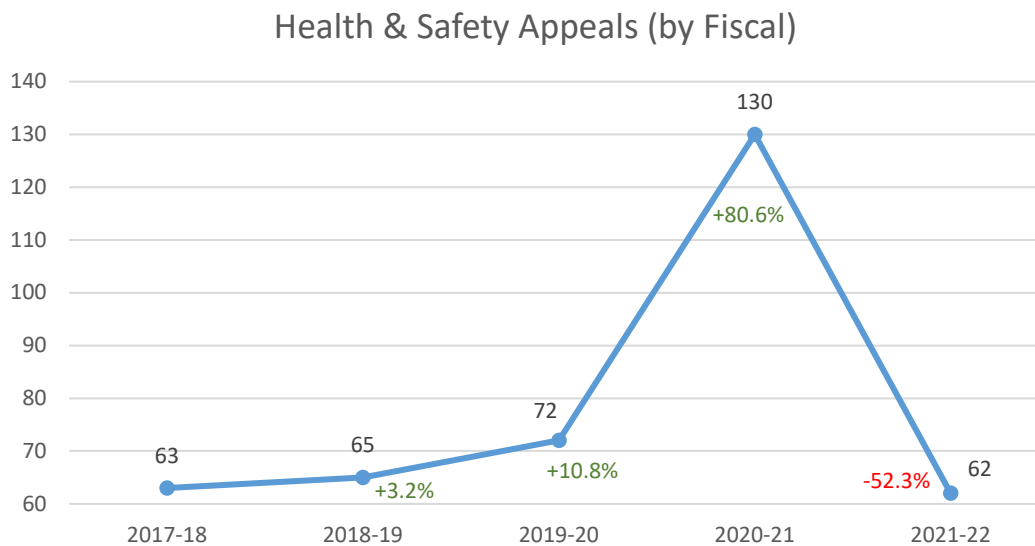


Figure 16

Unlawful Reprisals

In 2021/2022, the Board received 192 complaints under Section 50 of the *Occupational Health and Safety Act* alleging wrongful discipline or discharge for acting in compliance with the Act. Three of the applications filed in 2021/2022 were referred by health and safety inspectors (Figure 17).

Of the total 203 individual unlawful reprisal cases closed, 186 cases (91.6%) were resolved without a final hearing. (Figure 3).

	Total Received			Total Caseload	Total Closed			Terminated	Settled, Withdrawn, Abandoned	Advice Provided	Pending	Sine Die	Pending March 31, 2022	Total Pending + Sine Die
	198	3	73		203	2	26							
Unlawful Reprisals	198	3	73	274	203	2	26	8	164	1	2	13	58	71
Health and Safety - Inspector Referral	3	0	1	4	3	0	0	0	3	0	0	1	0	1
Health and Safety Reprisal	189	3	70	262	194	2	24	8	157	1	2	12	56	68
Reprisal - Long Term-Care Homes Act	0	0	1	1	0	0	0	0	0	0	0	0	1	1
Reprisal - Public Service of Ontario Act	3	0	1	4	3	0	1	0	2	0	0	0	1	1
Reprisal - Environmental Bill of Rights Act	1	0	0	1	1	0	0	0	1	0	0	0	0	0
Reprisal - Environmental Protection Act	1	0	0	1	1	0	0	0	1	0	0	0	0	0
Reprisal - Public Inquiries Act	1	0	0	1	1	0	1	0	0	0	0	0	0	0

Figure 17

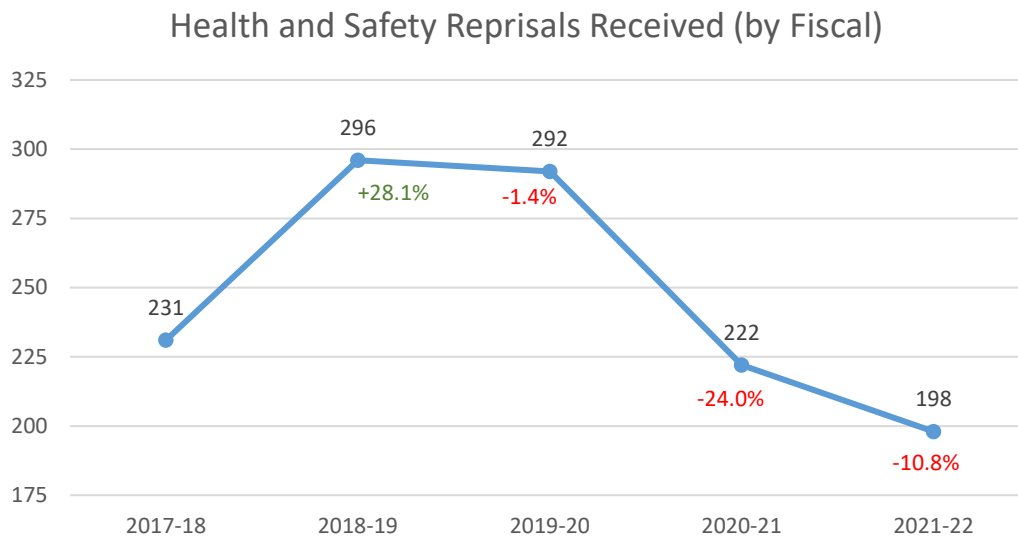


Figure 18

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.

In 2021/2022 the Board received 19 applications for interim orders, and four were pending from the previous year. Sixteen files were resolved without a final hearing (Figure 3).

Jurisdictional Disputes

There were 101 applications before the Board under section 99 of the Act involving union work jurisdiction. Fifty-five individual cases closed were resolved prior to a final hearing date (Figure 3).

	Total Received	Re-Opened	Pending April 1, 2021	Total Caseload	Total Closed	Granted / Partially Dismissed	Terminated	Settled, Withdrawn, Abandoned	Work Assignment Altered	Sine Die	Pending March 31, 2022	Total Pending + Sine Die	
Jurisdictional Dispute	51	2	48	101	55	3	5	3	42	2	3	43	46
Jurisdictional Dispute (Construction)	48	2	47	97	54	3	5	3	41	2	3	40	43
Jurisdictional Dispute (Industrial)	3	0	1	4	1	0	0	0	1	0	0	3	3

Figure 19

Sale of Business/Related Employer Applications

The Board received 93 applications alleging that two 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 is comparable to the number received in 2019/2020. (Figure 20)

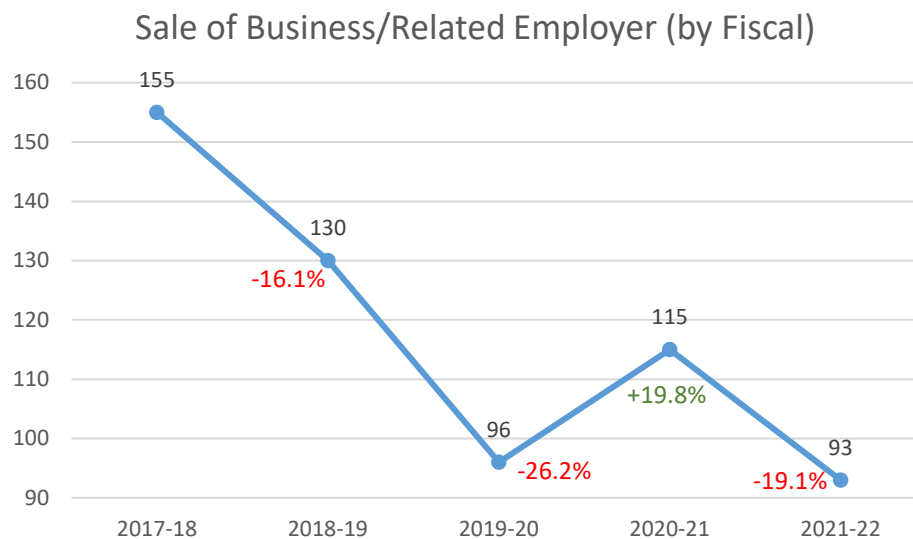


Figure 20

Essential Services

No applications were received under the *Crown Employees Collective Bargaining Act* in 2021/2022.

Two cases were received under the *Ambulance Services Collective Bargaining Act* and one was pending from the previous year. Of the three cases closed, two were resolved without a final hearing (Figure 24).

School Boards Collective Bargaining Act

The *School Boards Collective Bargaining Act* sets out the structure for collective bargaining in the education sector. The parties 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 the central/local split, disputes are decision by the Board upon the application of either party or the Crown, as well as any issue arising from the parties’ agreement or Board order.

The Board received no applications under *SBCBA* in 2021/2022.

Colleges Collective Bargaining Act

The *Colleges Collective Bargaining Act, 2008* (“*CCBA*”) extended collective bargaining to part-time and sessional employees of Colleges of Applied Arts and Technology. The *CCBA* 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 no applications for certification under the *CCBA* in 2021/2022. One is pending as of March 31, 2022.

Pursuant to the *CCBA*, 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. In 2021/2022, the Board supervised one ratification vote and one strike vote under the *CCBA*. Pursuant to section 17(2) of the *CCBA*, 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 such request under the *CCBA* in 2021/2022. In 2021/2022, three unfair labour practice complaints were filed under the *CCBA*.

Case Type	Votes	Employees on Employer's List	Votes Cast	Voter Turnout (%)	In Favour (%)	Against (%)
Ratification	1	8,696	1,400	16.1%	89.4%	10.6%
Strike	1	15,207	10,165	66.8%	59.4%	40.6%
Final Offer	1	16,248	10,794	66.4%	40.0%	60.0%

Figure 21

Last Offer Votes

Under section 42(1) of the *Labour Relations Act*, the Minister of Labour, Training and Skills Development has the authority to direct a vote among employees on an employer’s last offer for settlement of a collective agreement. Where such direction is made, the Minister requests the Board to conduct the vote. Although the Board is not responsible for the administration of votes under that section, the Board’s Mediators and Vote Officers 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 eight requests during the fiscal year, one of which was withdrawn without a vote being held. All seven votes held were conducted electronically. Over the seven votes, there was a 95.6% voter turnout. The employees voted to reject the collective agreement in six cases, and voted in favour of the collective agreement in one case. (Figure 22)

Case Type	Votes	Employees on Employer's List	Votes Cast	Voter Turnout (%)	In Favour of Final Offer (%)	Against Final Offer (%)
Total Last Offer Votes	7	1,728	1,466	95.6%	13.3%	86.7%

Figure 22

Declaration of Successor Trade Union

Three applications for declaration of successor trade union were received and one was pending on March 31, 2022. (Figure 24)

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 2021/2022. These are joint applications by employers and trade unions and are made on consent. (Figure 24)

Referral on Employee Status

The Board received one application under section 114(2) of the Act, seeking a decision on the status of individuals as employees under the Act. Two cases were closed and two cases were pending on March 31, 2022 (Figure 24)

Referrals by Minister of Labour, Training and Skills Development

In 2021/2022, the Board dealt with 13 cases including 7 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*. Six of the applications were closed. Seven remained pending on March 31, 2022 (Figure 24)

First Agreement Arbitration

In 2021/2022, the Board received 8 applications for directions to settle first agreements by arbitration. Seven remained pending on March 31, 2022. (Figure 24)

Applications under the *Public Sector Labour Relations Transition Act*

In 2021/2022, the Board had nine applications under the *Public Sector Labour Relations Transition Act, 1997* before it, including 6 new applications. (Figures 24 and 3). There were 5 votes held under *PSLRTA* in 2021/22 with an 83.3% voter turnout.

Case Type	Votes	Employees on Employer's List	Votes Cast	Voter Turnout (%)
PSLRTA Votes	5	522	419	83.3%

Figure 23

Other Applications (continued)

	Total Received	Re-Opened	Pending April 1, 2021	Total Caseload	Total Closed	Granted / Partially	Dismissed	Terminated	Settled, Withdrawn, Abandoned	Advice Provided	Pending	Sine Die	Pending March 31, 2022	Total Pending + Sine Die
Accreditation (Construction)	664	53	450	1167	765	151	31	8	508	3	64	112	290	402
College Collective Bargaining Act	6	0	3	9	4	2	0	0	0	0	2	0	2	2
Certification	0	0	1	1	5	4	0	0	1	0	0	1	3	4
College Vote	0	0	1	1	0	0	0	0	0	0	0	0	1	1
Violation of Colleges Collective Bargaining Act	3	0	0	3	3	3	0	0	0	0	0	0	0	0
Construction Grievance	486	44	292	822	2	1	0	0	1	0	0	1	2	3
Employment Protection for Foreign Nationals	7	0	6	13	583	86	15	4	418	2	58	92	147	239
Essential Services	2	0	1	3	10	0	1	0	9	0	0	0	3	3
Essential Services Agreement - Ambulance	2	0	1	3	3	2	0	0	1	0	0	0	0	0
Interim Order	19	0	4	23	21	2	6	0	13	0	0	1	1	2
Ministerial Referrals	7	0	6	13	6	2	0	0	4	0	0	2	5	7
Ministerial Referral (General)	6	0	4	10	5	2	0	0	3	0	0	2	3	5
Ministerial Referral (HLDAA)	1	0	2	3	1	0	0	0	1	0	0	0	2	2
Public Sector Labour Relations Transition Act	6	0	3	9	5	2	0	0	2	1	0	0	4	4
PSLRTA (Bargaining Units/Bargaining Agents)	6	0	3	9	5	2	0	0	2	1	0	0	4	4
Sale of Business/Related Employer	93	9	111	213	88	28	7	2	47	0	4	12	113	125
School Boards Application	0	0	1	1	1	0	0	0	1	0	0	0	0	0
Votes	8	0	4	12	12	11	0	0	1	0	0	0	0	0
Last Offer Vote	8	0	4	12	12	11	0	0	1	0	0	0	0	0
Misc.	24	0	19	43	27	12	2	2	11	0	0	4	12	16
Early Termination of Collective Agreement	7	0	0	7	7	6	1	0	0	0	0	0	0	0
Employee Status	1	0	3	4	2	0	0	0	2	0	0	0	2	2
Failure to Furnish Financial Statement	1	0	2	3	3	0	0	2	1	0	0	0	0	0
First Agreement Direction	8	0	8	16	9	4	0	0	5	0	0	4	3	7
Inadequate Financial Statement	1	0	1	2	2	0	1	0	1	0	0	0	0	0
Project Agreement	1	0	1	2	1	0	0	0	1	0	0	0	1	1
Religious Exemption	0	0	1	1	1	0	0	0	1	0	0	0	0	0
Sector Dispute (Construction)	2	0	2	4	0	0	0	0	0	0	0	0	4	4
Successor Trade Union	3	0	1	4	2	2	0	0	0	0	0	0	2	2

Figure 24

Time Required to Dispose of Applications, by Major Case Type

Time Taken (Calendar Days)	All Cases		Certification		Contravention		Health & Safety		Employment Standards		Construction Industry Grievances		Sale of Business		Termination		All Other Cases	
	Cumulative % Dispositions		Cumulative % Dispositions		Cumulative % Dispositions		Cumulative % Dispositions		Cumulative % Dispositions		Cumulative % Dispositions		Cumulative % Dispositions		Cumulative % Dispositions		Cumulative % Dispositions	
Total	2563		457		423		270		515		582		87		72		157	
0-7	119	4.6	33	7.2	9	2.1	1	0.4	4	0.8	38	6.5	1	1.1	28	38.9	5	3.2
8-14	175	11.5	69	22.3	7	3.8	4	1.9	0	0.8	76	19.6	2	3.4	4	44.4	13	11.5
15-21	197	19.2	100	44.2	25	9.7	7	4.4	6	1.9	28	24.4	0	3.4	14	63.9	17	22.3
22-28	130	24.2	43	53.6	16	13.5	19	11.5	10	3.9	26	28.9	3	6.9	7	73.6	6	26.1
29-35	119	28.9	26	59.3	24	19.1	15	17.0	27	9.1	21	32.5	1	8.0	1	75.0	4	28.7
36-42	97	32.7	9	61.3	15	22.7	28	27.4	16	12.2	18	35.6	4	12.6	0	75.0	7	33.1
43-49	86	36.0	14	64.3	13	25.8	23	35.9	24	16.9	8	36.9	2	14.9	0	75.0	2	34.4
50-56	63	38.5	9	66.3	8	27.7	17	42.2	19	20.6	5	37.8	1	16.1	0	75.0	4	36.9
57-63	59	40.8	8	68.1	11	30.3	12	46.7	15	23.5	11	39.7	1	17.2	0	75.0	1	37.6
64-70	58	43.0	3	68.7	12	33.1	3	47.8	23	28.0	10	41.4	3	20.7	0	75.0	4	40.1
71-77	70	45.8	5	69.8	9	35.2	9	51.1	32	34.2	8	42.8	2	23.0	0	75.0	5	43.3
78-84	45	47.5	4	70.7	9	37.4	6	53.3	17	37.5	5	43.6	0	23.0	1	76.4	3	45.2
85-91	49	49.4	3	71.3	12	40.2	4	54.8	20	41.4	8	45.0	1	24.1	0	76.4	1	45.9
92-98	36	50.8	2	71.8	8	42.1	4	56.3	11	43.5	7	46.2	2	26.4	0	76.4	2	47.1
99-105	43	52.5	6	73.1	7	43.7	5	58.1	14	46.2	8	47.6	2	28.7	0	76.4	1	47.8
106-126	97	56.3	7	74.6	14	47.0	10	61.9	37	53.4	17	50.5	2	31.0	2	79.2	8	52.9
127-147	78	59.3	7	76.1	20	51.8	5	63.7	22	57.7	20	54.0	1	32.2	1	80.6	2	54.1
148-168	79	62.4	4	77.0	12	54.6	9	67.0	33	64.1	13	56.2	1	33.3	1	81.9	6	58.0
169-183	55	64.6	5	78.1	15	58.2	1	67.4	13	66.6	17	59.1	1	34.5	0	81.9	3	59.9
183+	908	100.0	100	100.0	177	100.0	88	100.0	172	100.0	238	100.0	57	100.0	13	100.0	63	100.0

Figure 25

Percentage of Cases Closed Within 3, 6 and 9 Months of Application Date

Sale of Business / Related Employer

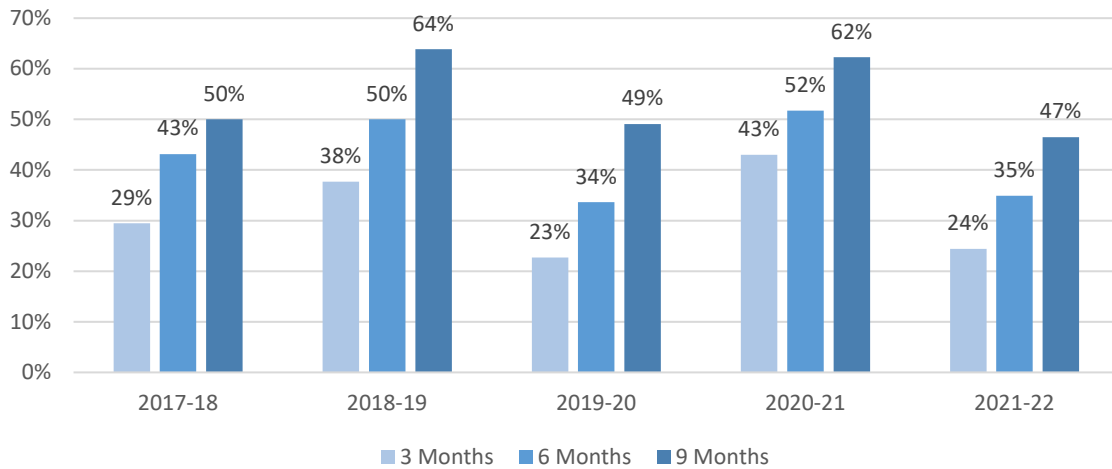


Figure 26

Employment Standards (Appeals)

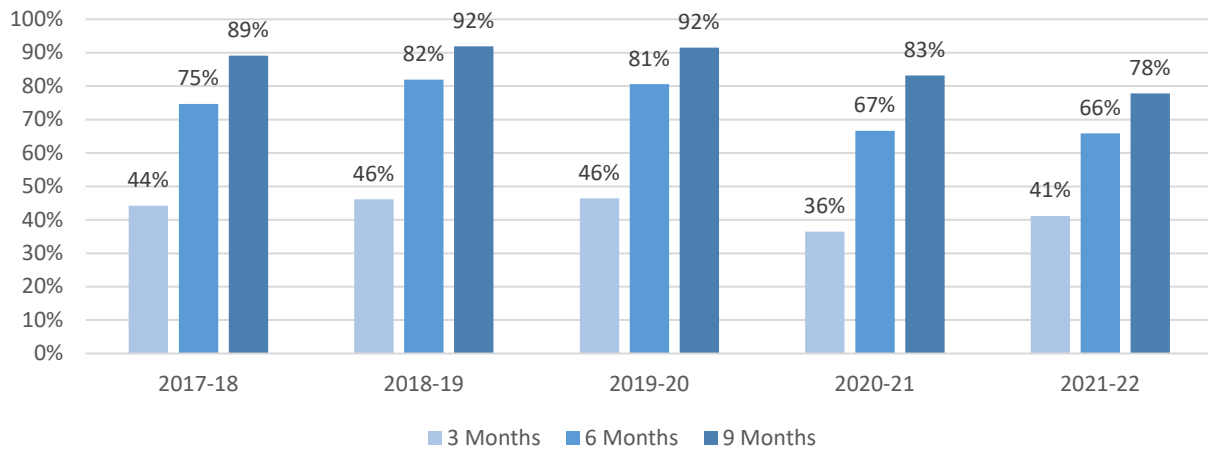


Figure 27

Construction Industry Grievances

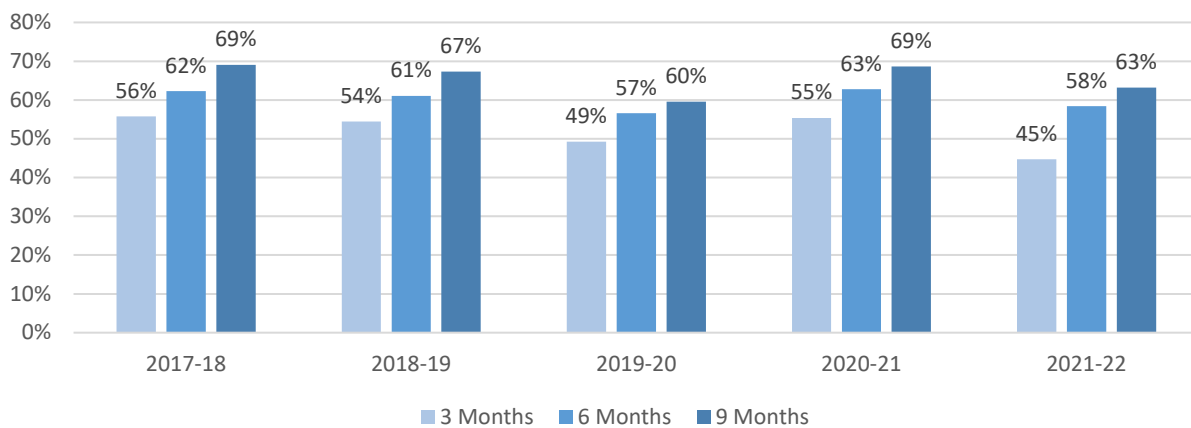


Figure 28

OHSA Reprisals

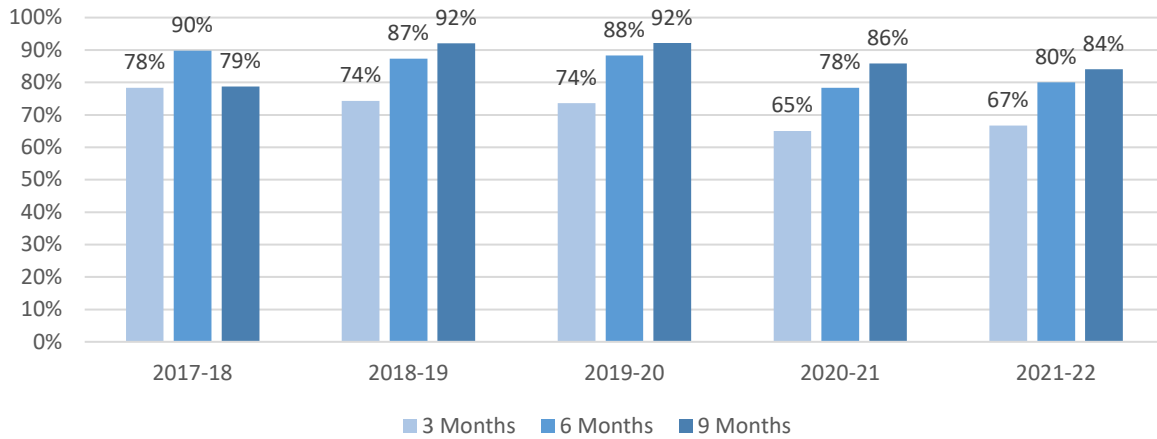


Figure 29

Certifications/Terminations (Industrial)

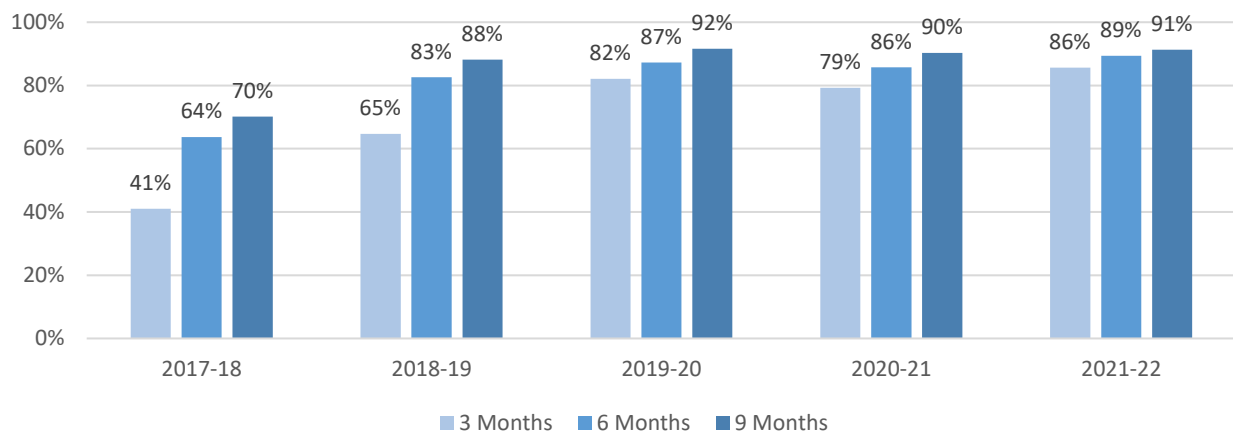


Figure 30

Certifications - Construction Card Based

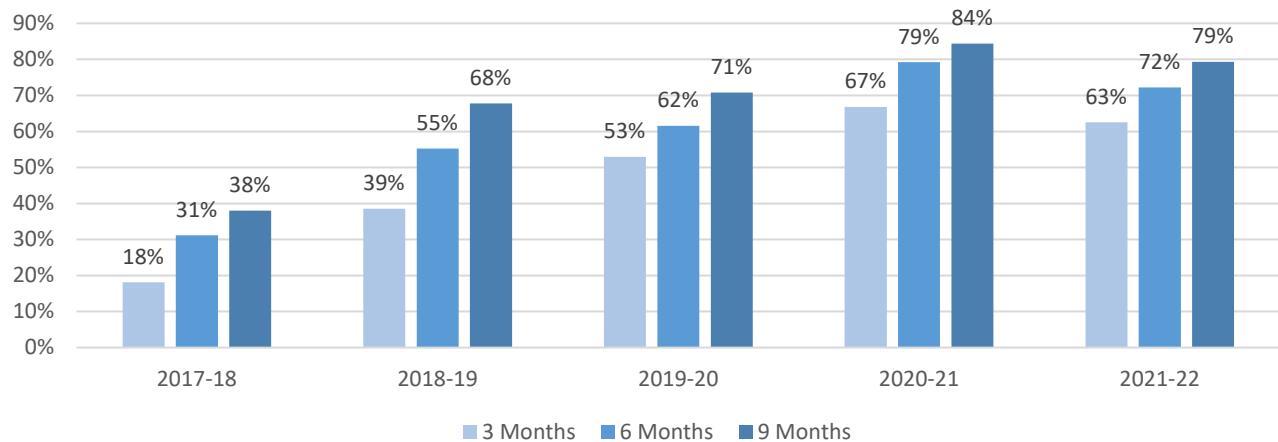


Figure 31

* Based on 227 applications

Certifications/Terminations (Construction)

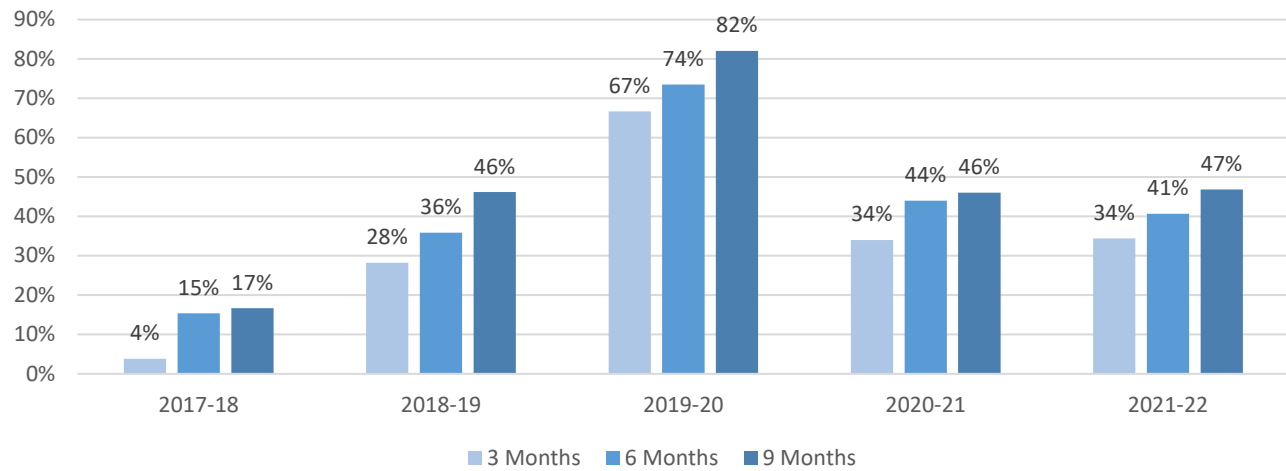


Figure 32

** Based on 33 applications. Because the applications for certification in the construction industry are predominantly card-based, there are far fewer vote-based applications for certification. These are often filed with an unfair labour practice complaint which needs to be adjudicated before these files can be closed.*

Key Decisions

The Board publishes its significant decisions every two months in its series of reports, called “Ontario Labour Relations Board Reports”. In addition, the Board sends out an email to subscribers of a monthly newsletter called “Highlights”, which is also posted on its website monthly and summarizes significant decisions in the preceding month(s). All decisions released by the Board are available on CanLII.

A summary of some of the Board’s most significant cases in 2021/2022 follows, and the full text of these decisions is available on CanLII.

Employment Standards – Leaves - Infectious Disease Emergency Leave – Employer sought review of Order to Pay requiring payment for paid infectious disease emergency leave (“paid IDEL”) days claimed by employee under section 50.1(1.2) of the *Employment Standards Act, 2000* (“ESA”) - Paid IDEL provisions of ESA allow for up to three days paid IDEL (of the lesser of \$200 or the amount the employee would have earned had she not taken the leave) if certain conditions are met, and in respect of individuals as set out in the ESA - Employee absent from work for two days to care for an individual identified in s. 50.1(8) of the ESA – Employer’s memorandum to staff indicated that employees entitled to short-term disability benefits valued at \$200 or more per shift would not be entitled to paid IDEL – Employer denied paid IDEL on the basis that employee was entitled to short-term disability benefits under her employment contract and her entitlement to paid IDEL was therefore reduced to zero – DES noted in its submissions that the reasons for leave under the employment contract did not have to perfectly match reasons for leave under the ESA – Reference made to ESA Policy Manual which set out four criteria that must be met as of April 19, 2021 in order for an employee’s paid IDEL entitlement to be reduced – No dispute that employee was not entitled to payment under short-term disability plan for an absence necessitated by caring for another individual and not employee’s own illness – Board noted remedial purposes of ESA and appropriate principles of interpretation – Board found that an interpretation of the ESA that disentitled employees from paid IDEL in such circumstances rendered purpose of paid IDEL “pointless or futile” and was illogical – Board also found that short-term disability plan imposed a more onerous qualification than paid IDEL in that medical proof of “total disability” was required in order to support an absence of three or more days, and Employer retained the right to request medical evidence for an absence of two or fewer days – Board found that four criteria were not met such that the existence of the short-term disability plan was not a basis for reducing the employee’s paid IDEL – Application for review dismissed.

GRAND RIVER HOSPITAL CORPORATION; RE DIRECTOR OF EMPLOYMENT STANDARDS; OLRB Case No: 1361-21-ES; Dated March 22, 2022 (2022 CanLII 25508)

Employment Standards Appeal – Reprisal – Constructive dismissal – Application for review pursuant to section 116 of the *Employment Standards Act, 2000*, (the “Act”) – Employment Standards Officer (“ESO”) determined Employer reprisal against employee and constructively dismissed employee after it significantly reduced hours of work – Employer sought to rely on Ontario Regulation 228/20 (the “IDEL regulation”) to argue reduction in hours of work was for “reasons relating” to COVID-19 – Employer was forced to close from March 23, 2020 to May 11, 2020 due to Declaration of Emergency by the Government of Ontario – Reduction in employee’s hours began May 11, 2020 – Employee filed complaint under the Act on July 5, 2020 – Employer hired new employee September 28, 2020 and new employee received significantly more hours of work and performed similar function to employee – Employee resigned two weeks after new employee was hired – Employer argued it reduced employee’s hours due to COVID-19 and required changes to its business – Director of Employment Standards argued an exception to the minimum standards provided by the Act must be interpreted strictly, however, the IDEL regulation is not a clear or simple exception and should be interpreted broadly because it provides significant benefits and imposes inconveniences to both employers and employees – Employee argued he was reprisal against and constructively dismissed on the basis of the reduction in hours – Board determined the IDEL regulation constitutes an exception to the minimum standards and should be interpreted strictly – Board held the IDEL regulation applied up until the Employer hired a new employee to perform same duties as the employee, concluding that at that time, the reduction in the employee’s hours was no longer due to COVID-19 and IDEL regulation was no longer applicable – Once IDEL regulation ceased to apply, changes to employee’s duties and reduction in hours had to be viewed through lens of constructive dismissal – Board also concluded that reduction in employee’s hours of work was tainted by an anti-Employment Standards motive – Compensation order and order to pay amended

Construction Industry - Grievance Referral – Discrimination – Referral of grievances under section 133 of the *Labour Relations Act, 1995* – Union alleged Employer violated collective agreement and the Ontario *Human Rights Code* (the “Code”) on the basis of disability, race and/or national origin when it discharged Grievor – Employer argued Grievor, a Black man, engaged in a pattern of aggressive conduct, deemed to be “harassing and threatening in nature”, including outbursts and confrontations with other employees – Union argued Employer’s policies failed to deal explicitly with issues of race, systemic racism or anti-black racism, Employer failed to and/or superficially investigated instances where Grievor claimed he was discriminated against on the basis of race, and Employer failed to establish a continued pattern of misconduct – Board determined Employer did not meet burden to establish it had just cause to discharge Grievor – Board held Employer relied on past conduct for which Grievor was never disciplined and Grievor’s conduct did not warrant discharge – Board held the Union demonstrated Employer discriminated against Grievor contrary to the *Code* – Employer failed to thoroughly document incidents with witness statements involving White employees but fully documented Grievor’s outbursts – Union called expert witness to testify as an expert in implicit bias – Board relied on expert testimony and jurisprudence regarding how “decent, fair-minded people who would eschew and denounce racist conduct might still act on unconscious biases to the detriment of a member of an ‘outgroup’ and to the benefit of members of the ‘ingroup’” – Board determined discharge tainted by discrimination – Grievance allowed

LABOURERS’ INTERNATIONAL UNION OF NORTH AMERICA, LOCAL 183; CTS (ASDE) INC.; OLRB Case Nos: 0249-19-G, 2580-19-G, 251-19-G; Dated February 23, 2022 (2022 CanLII 14925)

Occupational Health and Safety – Suspension of Inspector’s Order – Employer sought suspension of Inspector’s orders under the Occupational Health and Safety Act (the “Act”) pending appeal - Inspector responded to complaint that workers were not wearing masks - Inspector issued orders to Employer regarding various COVID-19 mitigation measures that were not being taken in the workplace, including screening, physical distancing, proper masking and other measures – Employer asserted measures sought by Inspector were impossible in restaurant setting, and ignored personal or religious beliefs and medical exemptions – Inspector noted cleaning and disinfection protocols were being observed – Board applied three-part test in respect of suspension – First, suspension of orders would likely endanger the health and safety of workers in view of significant health and safety hazard presented by COVID-19 and particularly Omicron variant – Second, no facts pleaded to establish prejudice to Employer – Third, no strong *prima facie* case presented for the successful appeal of the order – Application for suspension of orders dismissed

KATE’S KOUNTRY KITCHEN (1582674 ONTARIO INC); KEVIN BICK AND A DIRECTOR UNDER THE OCCUPATIONAL HEALTH AND SAFETY ACT; OLRB Case No: 1654-21-HS; Dated January 17, 2022 (2022 CanLII 3501)

Related Employer Application – Subcontracting - Application under subsection 1(4) of the *Labour Relations Act* – Applicant union sought a declaration that the Respondents, T (a cleaning service) and DR (T’s client and a municipality), constitute one employer for the limited purpose of adjudicating and enforcing the termination grievances of two individuals formerly employed by T – Respondents contended that they do not carry on “associated or related activities or businesses”, and that their activities or businesses are not under “common control or direction” – T, a private janitorial service company, and DR, a municipality that provides public services, operated different “businesses” – T and DR carry on “associated or related activities” in respect of cleaning, because DR directly employed T to clean its headquarters – Despite the control exercised by DR pursuant to the terms of the commercial contract with T, T retained control over most labour relations matters as it they relate to the Applicant union – However, in the context of the discharge of the two individuals, DR stepped into T’s role in respect of discipline – DR’s conduct distinguished this case from the many cases in which the Board determined that the subcontracting relationship did not bring the entities within the ambit of subsection 1(4) of the Act – As between DR and T, there existed “centralized control of labour relations” in respect of the disciplinary actions taken against the two individuals – DR was clearly “calling the shots” in relation to the two discharged employees, and therefore was not in a genuine arms-length relationship with T – T and DR carried on related activities under common control – Board declared that T and DR are

a single employer for the limited purpose of adjudicating and enforcing the individual termination grievances of the two individuals and matters incidental to the resolution of the grievances - Application granted

LABOURERS' INTERNATIONAL UNION OF NORTH AMERICA, LOCAL 183; RE **TOURE CLEANING SERVICES LTD**; RE THE REGIONAL MUNICIPALITY OF DURHAM; OLRB Case No: 3094-19-R; Dated January 14, 2022; (2022 CanLII 3449)

Unfair Labour Practice – Duty of Fair Representation - Applicant alleges that the union breached its duty of fair representation under the *Labour Relations Act, 1995* in relation to matters arising out of Applicant's employment with school board – Applicant takes issue with COVID-19 vaccine policy and with Union's response to school board's COVID-19 Vaccination Policy – Applicant was placed on non-disciplinary administrative leave of absence without pay for failure to comply with policy – Applicant alleges that union acted in discriminatory fashion by only "effectively representing" certain members, and not those members that are opposed to the COVID-19 vaccine – Bald allegations do not disclose on their face a breach of the Act – There is nothing inherently unlawful about a union making a decision that favours one group of employees over another – Applicant has not pleaded anything to suggest that Union acted without cogent reason or labour relations purpose – Application dismissed

TINA DI TOMMASO; RE ONTARIO SECONDARY SCHOOL TEACHERS' FEDERATION; OLRB Case No: 1551-21-U; Dated December 7, 2021; (2021 CanLII 132009)

Construction Industry – Grievance Referrals – Application for Certification – Non Construction Employers – Board heard preliminary argument concerning three grievance referrals and an application for certification – As a result of Bill 66, *Restoring Ontario's Competitiveness Act, 2019*, responding parties were deemed non construction employers – Effect was to make construction provisions of the *Labour Relations Act, 1995* and the provincial collective agreements in the construction industry no longer statutorily binding on the responding parties – Unions challenged the constitutionality of Bill 66 pursuant to section 2(d) of the *Canadian Charter of Rights and Freedoms* – Board concluded there was no breach of section 2(d) of the *Charter* – Board considered *Independent Electricity Market Operator ("IESO")* decision (2012 ONCA 293), and concluded that it was binding on the Board, not materially distinguishable and determinative of the question before it – Although the Board's ruling based on *IESO* was dispositive, the Board further concluded that *Charter* challenge should fail based on section 2(d) jurisprudence and principles enunciated by Supreme Court of Canada – Grievance referrals and certification application dismissed.

CITY OF HAMILTON; RE: REGION OF WATERLOO; RE: THE CORPORATION OF THE CITY OF SAULT STE. MARIE; RE: UNIVERSITY OF TORONTO; RE: CARPENTERS' DISTRICT COUNCIL OF ONTARIO, UNITED BROTHERHOOD OF CARPENTERS AND JOINERS OF AMERICA; RE: THE ATTORNEY GENERAL OF ONTARIO; RE: UNITED ASSOCIATION OF JOURNEYMEN AND APPRENTICES OF THE PLUMBING AND PIPEFITTING INDUSTRY OF THE UNITED STATES AND CANADA, LOCAL 46; RE: THE GOVERNING COUNCIL OF THE UNIVERSITY OF TORONTO; OLRB Case Nos.: 1299-19-G, 1303-19-G, 1304-19-G, 1523-19-G; Dated October 22, 2021 (2021 CanLII 108500)

Occupational Health and Safety Act – Appeal of Inspector's Order – Mootness – Inspector issued order concerning use of personal protective equipment on various hospital units where patients with COVID-19 were being cared for – Inspector subsequently rescinded order – Union appealed the rescission – Hospital argued application was moot, noting circumstances around the rescission of the order had changed such that there was no longer a tangible and concrete dispute – Union argued that, although outbreaks occurring at time of the order and its rescission had resolved, the workplace risks involving COVID-19 remained – Board held the dispute at the core of the application was not moot, with the parties continuing to disagree about appropriate measures and procedures with respect to personal protective equipment – Board further noted that, even if there was no tangible and concrete dispute between the parties, this would nonetheless be an appropriate case for the Board to exercise its discretion to hear the matter, as it could provide the parties with future guidance and "the

threat posed by COVID-19 will continue to be present, in particular in health care settings, for the foreseeable future” – Matter continues.

SOUTHLAKE REGIONAL HEALTH CENTRE; RE: ONTARIO NURSES’ ASSOCIATION; RE: A DIRECTOR UNDER THE *OCCUPATIONAL HEALTH AND SAFETY ACT*; OLRB Case No. 2573-20-HS; Dated October 28, 2021; (2020 CanLII 122400)

Application for Certification – Construction Industry – Constitutional Jurisdiction – Union applied for certification under section 128.1 of the *Labour Relations Act, 1995* – Employer engaged in welding and other track repair on railways – On date of application, employees performed this work on CN, CP and Crosslinx track infrastructure – Employer argued its labour relations were subject to federal jurisdiction – Board concluded evidence was not sufficient to rebut the presumption of provincial jurisdiction over labour relations – “Effective” performance of railway operations of either CN or CP is not dependent on maintenance of way services performed by Employer’s employees – Matter continues.

HOLLAND, L.P.; RE: LABOURERS’ INTERNATIONAL UNION OF NORTH AMERICA, ONTARIO PROVINCIAL DISTRICT COUNCIL; OLRB Case Nos. 2059-18-R, 2469-18-R, 2506-18-R, 2577-18-R, 0571-19-R, 0615-19-R; Dated July 15, 2021; (2021 CanLII 67617)

Occupational Health and Safety Act – Interim Order – Union filed an application for an interim order under section 98 of the *Labour Relations Act* – Underlying application appealed an inspector’s refusal to make an order under OHSA – Union asserted measures to protect health and safety of bus operators, with respect to COVID-19, were not sufficient – Specifically, union sought to have employer block or remove the two seats behind the driver’s seat and move or add a white line to at least 2 meters behind the driver’s seat – Board held that inspector’s decision not to make an order should be afforded deference – Union had not met onus that there was compelling or persuasive reason to interfere with inspector’s decision – Concept of erring on the side of protecting the health and safety of workers is built into OHSA, but adjudicators should not use the precautionary principle to substitute their personal opinions or preferences to prefer ambiguous or vague evidence - Application for interim order dismissed.

TORONTO TRANSIT COMMISSION; RE: AMALGAMATED TRANSIT UNION, LOCAL 113; RE: A DIRECTOR UNDER THE *OCCUPATIONAL HEALTH AND SAFETY ACT*; OLRB Case No. 0420-21-IO; Dated: June 11, 2021; (2021 CanLII 53270)

Requests for Access to Documents in the Board's Adjudicative Files

Since the Superior Court Decision in *Toronto Star v. AG Ontario*, 2018 ONSC 2586 (CanLII) and the subsequent enactment of the *Tribunal Adjudicative Records Act* ("TARA"), the Board has received an increased number of requests for documents in its adjudicative files. In anticipation of those requests, the Board amended its Access to Documents and Exhibits Policy and its Rules of Procedure, in accordance with TARA.

During the 2021/2022 fiscal year, the Board received and processed 47 requests for access to documents in a total of 72 Board files. Many of the requests sought access to multiple Board files. Those making requests included parties to a case, the media, other organizations, lawyers not involved in the file and members of the public. The requests sought records in active files currently being heard by Vice Chairs, files which had been adjourned and older closed files. Many of the files were complex and contained hundreds of pages, if not boxes, of documents which were then reviewed by the Board's solicitors, Vice Chairs and/or Chair. In many cases, parties were notified and submissions were directed which were then also reviewed. Requests were processed in accordance with the Board's Policy, TARA and the Board's Rules of Procedure, as applicable.

The Board issued a number of decisions which further defined the scope of the adjudicative records and addressed requests for confidentiality. The task of reviewing entire files and each document in detail has proven necessarily more time-consuming than anticipated and requires significant Board resources particularly as the number of requests increases and encompass long ago closed pre-TARA cases.

Court Activity

On April 1, 2021, there were thirty-seven Board matters pending before the Courts.

During the 2021/2022 fiscal year, there were nineteen new applications for judicial review of Board decisions filed with the Divisional Court. Fifteen applications for judicial review were disposed of by the Divisional Court. Ten were dismissed on the merits, three were granted and two abandoned. Thirty-six applications for judicial review remain outstanding at the Divisional Court on March 31, 2022.

Five motions for leave to appeal to the Court of Appeal were received during the 2021/2022 fiscal year. Two were granted, two were dismissed and five are pending. Following a hearing on the merits, one appeal was dismissed. Two appeals remain outstanding. An application for leave to appeal to the Supreme Court of Canada was received and remains pending.

Type of Case	Caseload			Disposed of				Pending March 31, 2022
	Total	Pending April 1, 2021	Received	Total	Granted	Dismissed	Abandoned	
Total	64	37	27	20	5	13	2	44
Divisional Court (Merits)	51	32	19	15	3	10	2	36
Divisional Court (Stay)	0	0	0	0	0	0	0	0
Ontario Court of Appeal (Seeking Leave)	9	4	5	4	2	2	0	5
Ontario Court of Appeal (Merits)	3	1	2	1	0	1	0	2
Supreme Court of Canada (Seeking Leave)	1	0	1	0	0	0	0	1
Supreme Court of Canada (Merits)	0	0	0	0	0	0	0	0

Figure 33

Key Activities with Stakeholder Groups

Advisory Committee: The Ontario Labour Relations Board has established an Advisory Committee whose mandate is to function as a consultative group for the Board. The Committee is composed of members of the labour and management side bar, Director of Legal Services (MOL), representatives from the Ontario Bar Association Labour & Employment Law Section and the OLRB Chair, Alternate Chair, Director/Registrar and Solicitors and acts as a resource to the Board for consultation/feedback. The Committee meets at least three times per year, and more often if necessary. Committee membership and minutes of meetings are posted on the Board's website. During the pandemic the Committee continued to meet by videoconference.

Internship Programs: Collaborative external partnership programs with client labour law firms and postsecondary institutions continue. The program provides opportunities for students currently articling and recent graduates and/or current students of MIR and Labour Studies programs to put their academic training to practical use with a hands-on professional learning experience at the OLRB.

Outreach: Regular community outreach by the Chair, Alternate Chair, Director/Registrar and Deputy Registrar at consultations held with client and stakeholder groups and Town Hall and community meetings where advisable.

These individuals are invited to and routinely speak at professional and stakeholder conferences, conventions, seminars, continuing education programs and meetings. Upcoming events may include:

- Representation at Labour Board conferences
- Conference of Labour Board Chairs and Senior Administrators
- Association of Labor Relations Agencies (ALRA)
- Council of Canadian Administrative Tribunals (CCAT)
- Canadian Institute of Administrative Justice (CIAJ)
- Society of Ontario Adjudicators and Regulators
- Ontario Bar Association
- Law Society of Ontario

The OLRB provides services in both official languages, including the publication of forms, information bulletins, website messages etc., and strives to ensure the accessibility of our websites and the conduct of hearings. The ability of our clients and stakeholders to readily communicate with the Board in an accessible manner in either French or English - from reception through to adjudication continues to be a priority.

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 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 aligned with the prior fiscal and only fluctuated in this fiscal due to cost of living increases. Transportation expenditures continued to result in a significant savings due to the pandemic. Travel as well as conference attendance was put on hold and consequently resulted in a significant savings for the Board. Throughout the fiscal year, services expenses were slightly lower than the prior fiscal as additional equipment was already in place and electronic voting remained constant. The total remuneration for all OIC appointees was \$3,315,860.

All figures in \$000.0 thousand

Account	Expenditure Estimates	In-year Board Approvals	Year-end Budget	Year-end Actuals	Variance	% Variance
Salaries & Wages	8,150.7	59.1	8,209.8	8,468.9	-259.1	-3.2%
Benefits	1,002.1	27.6	1,029.7	1,107.5	-77.8	-7.6%
ODOE:						
Transportation & Communication	419.5		419.5	100.8	318.7	76.0%
Services (Including Lease)	2,314.4	42.7	2,357.1	2,335.5	21.6	0.9%
Supplies & Equipment	82.2		82.2	24.2	58.0	70.6%
Total ODOE	2,816.1	42.7	2,858.8	2,460.5	398.3	13.9%
Grand Total	11,968.9	129.4	12,098.3	12,036.9	61.4	0.5%

Figure 34

Non-Tax Revenue	Revenue
Construction Grievance	\$476.6
Publications	-
Subscriptions	\$7.2
Total	\$483.8

Figure 35

Appendix A

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. The following is a chart of OICs working in 2021/2022, their appointment terms and remuneration paid in 2021/2022:*

Name	First Appointed	Term of Appointment	Remuneration Paid
Chair			
Fishbein, Bernard	February 28, 2011	February 27, 2022	\$210,682.00
O'Byrne, Brian	February 28, 2022	February 27, 2024	\$12,899.00
Alternate Chair			
Wilson, Matthew **	August 29, 2012	March 15, 2021	\$2,991.00
Full Time VCs			
Beatty, Adam	June 30, 2016	June 29, 2026	\$142,411.00
Debané, Geneviève	June 30, 2016	June 29, 2026	\$155,543.00
Doyle, Maureen	February 7, 2021	February 6, 2023	\$155,543.00
Keating, Neil	January 22, 2021	January 22, 2023	\$136,078.00
Kelly, Patrick M.	May 17, 1999	June 2, 2023	\$155,543.00
Kugler, Jesse	August 25, 2021	August 25, 2023	\$57,571.00
Lawrence, Lindsay	September 1, 2021	September 1, 2023	\$50,473.00
Lewis, John D.	March 11, 2009	March 10, 2024	\$155,543.00
McCrary, Michael	August 29, 2019	August 28, 2024	\$141,505.00
McFadden, Michael	November 5, 2014	November 4, 2024	\$155,543.00
McGilvery, Roslyn	September 9, 2013	October 30, 2023	\$155,543.00
Mitchell, C. Michael	July 22, 2015	February 27, 2023	\$155,543.00
Morrison, Danna	February 16, 2022	February 16, 2024	\$2,617.00
Ross, David	November 15, 2017	November 14, 2022	\$86,793.00
Ross, Peigi	August 29, 2019	August 28, 2024	\$141,505.00
Rowan, Caroline	May 6, 1999	May 6, 2023	\$155,543.00
Severy, Yvon	May 25, 2015	March 1, 2022	\$144,778.00
Shouldice, Ronald K. (Lee)	May 30, 2007	March 11, 2022	\$152,552.00
Slaughter, Jack J.	February 3, 2003	February 2, 2026	\$155,543.00
Waddingham, Kelly A.	April 7, 2004	December 31, 2022	\$151,355.00

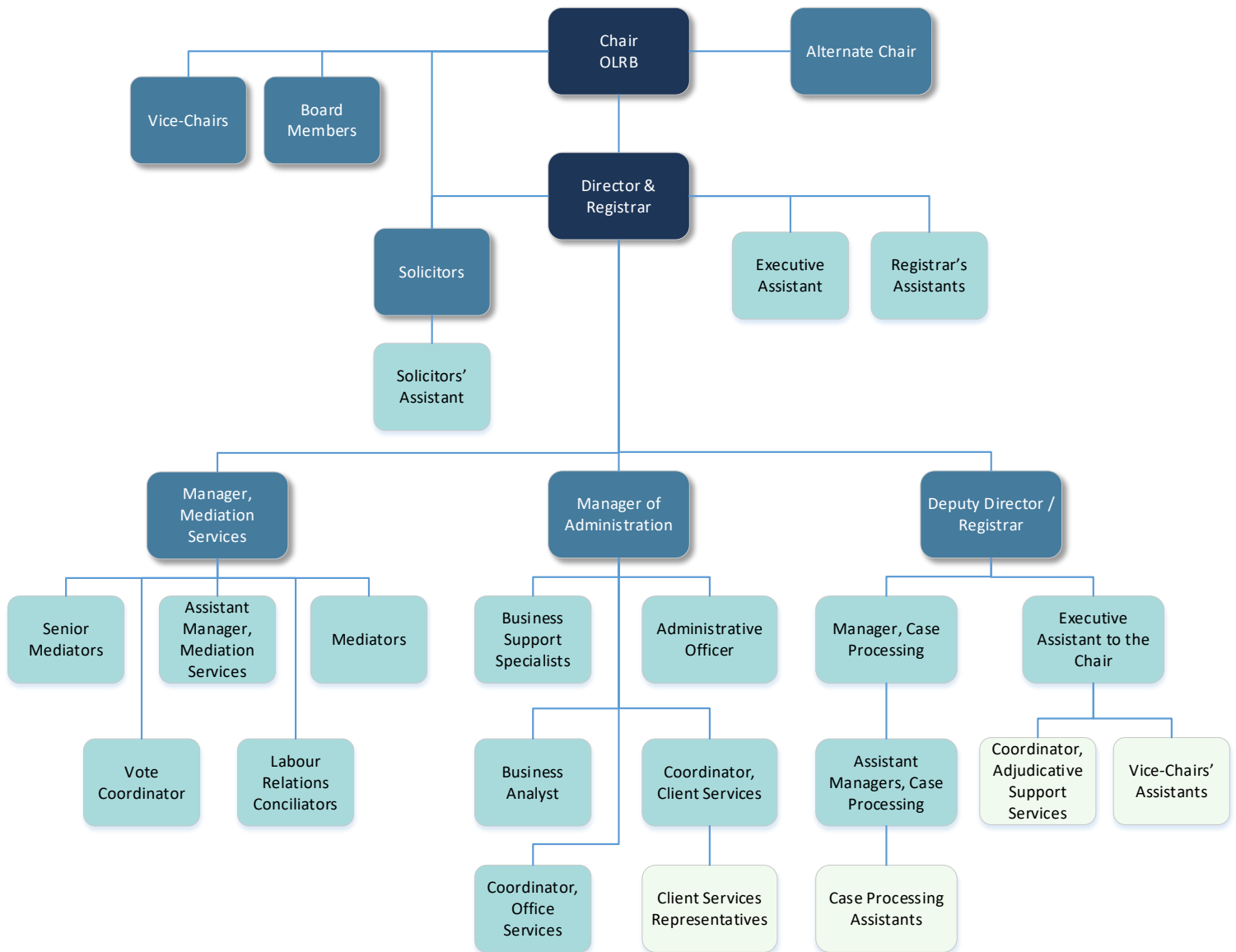
Name	First Appointed	Term of Appointment	Remuneration Paid
Part Time VCs			
Beresford, Harvey	October 5, 2016	October 30, 2021	\$1,970.00
Cavé, Johanne	March 7, 2019	March 6, 2024	\$9,850.00
Clarke, Graham	November 2, 2016	November 1, 2021	\$0.00
Green, Maurice	May 16, 2012	July 8, 2022	\$92,097.50
Kitchen, Robert W.	May 30, 2012	July 8, 2022	\$75,130.91
Kuttner, Thomas	September 11, 2013	October 30, 2023	\$73,481.00
Martelli, John	May 19, 2021	May 19, 2023	\$23,546.43
Marvy, Len	May 16, 2019	May 15, 2024	\$16,671.15
McLean, Brian C.	July 8, 1998	July 7, 2022	\$4,728.00
Rogers, Derek	August 28, 2013	October 30, 2023	\$62,628.35
Salisbury, Robert	May 16, 2019	May 15, 2021	\$1,576.00
Smeenk, Brian	May 19, 2021	May 19, 2023	\$27,333.75
Turtle, Paula **	July 22, 2015	July 21, 2020	\$26,678.50
P/T Members (Employer)			
Bolton, Lori	March 11, 2015	March 10, 2025	\$0.00
Cook, William S.	March 18, 2015	March 17, 2025	\$1,497.20
Cronkright, Steven **	June 22, 2016	December 21, 2018	\$788.00
LeChien, Robert **	April 15, 2015	April 14, 2020	\$3,940.00
St. Louis, David	February 18, 2015	February 17, 2025	\$0.00
Taylor, Margaret	November 29, 2017	November 28, 2022	\$0.00
Zachar, Wayne	June 22, 2016	June 22, 2026	\$0.00
P/T Members (Employee)			
Dowding, John	June 22, 2016	June 22, 2026	\$328.00
Gairey, Jawara	October 19, 2016	October 30, 2021	\$0.00
MacDonald, Brian	June 22, 2016	June 22, 2026	\$0.00
Nicholls, William	May 6, 2015	May 5, 2025	\$0.00
Nielsen, Heino	June 30, 2016	June 30, 2026	\$0.00
Phillips, Carol	January 14, 2009	January 13, 2022	\$0.00

*Annual remuneration for full-time appointees to the Board is set by a Directive issued by Management Board of Cabinet. The maximum annual salary varies on whether the term of appointment is a first, second or third term. The remuneration actually paid to an individual appointee may be less than the maximum set by the Management Board Directive due to individual circumstances such as a change in term of appointment during the year including resignation or retirement, sick leave, unpaid leave of absence or time spent by an appointee cross-appointed to another tribunal. Remuneration for part-time appointees to the Board is based on a per diem rate established by Management Board of Cabinet. As a result, annual remuneration set out in the chart above will vary according to work assigned to individual part-time appointees.

** The Vice Chair and Members' appointments ended in prior fiscal periods. Pursuant to subsection 110(7) of the *Labour Relations Act*, the Chair authorized the Vice Chair or Member to complete matters on which he/she was seized.

Appendix B

Organizational Chart



Accountability Statement

The OLRB's Annual Report for the fiscal year ending March 31, 2022 was prepared under my direction for submission to the Minister of Labour, Training and Skills Development 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 accordance with the accounting principles for governments issued by the Public Sector Accounting Board (PSAB). 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, Training and Skills Development'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, Training and Skills Development, 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, 2021 to March 31, 2022.

For More Information

Local: 416-326-7500

Toll-Free: 1-877-339-3335

Hearing Impaired (TTY): 416-212-7036

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

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

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

Copyright © Queen's Printer for Ontario, 2022