

**A MESSAGE FROM THE CHAIRPERSON  
OF THE  
MANITOBA LABOUR BOARD**

I am pleased to submit the 2015/16 Annual Report outlining the activities of the Manitoba Labour Board for the period April 1, 2015 to March 31, 2016.

During this reporting period, the Manitoba Labour Board successfully fulfilled its mandate and met its objectives. The Board continued to develop and implement initiatives designed to modernize Board practice and procedures. As a result of these initiatives, the Board has enhanced its capacity to provide efficient and expeditious resolution of disputes, made it easier for the public to access the Board's services, and reduced controllable expenditures.

A centerpiece of the Board's recent initiatives is a commitment to expand the use of mediation and case management to assist parties to narrow or resolve issues without the necessity of formal hearings. In April of 2015, the Board's Labour Board Officers received extensive skills-based mediation training to build upon their considerable mediation experience. The result of these efforts has been a significant increase in the number of cases that the Board helps parties to resolve without a hearing. Pre-hearing case management conferences have also been implemented to streamline hearings that do occur and to more effectively schedule cases. The Board also created a plain language guide to assist parties, particularly those who are self-represented, in preparing for Board hearings.

During this reporting period the Board also developed and implemented a new electronic communications strategy. The initiative was led by the Board's Executive Director, Mr. Dale Paterson, working with the Board's electronic communications team. In consultation with the labour relations community, the team researched, developed, and implemented a comprehensive approach to electronic communications. In early November of 2015, a pilot project commenced involving a number of local law firms and legal departments. Following an assessment of the pilot project, the Board's new electronic communication strategy was implemented in January of 2016. I am pleased to report that this initiative has been very successful and enthusiastically received by those individuals who communicate with the Board and, further, has resulted in significant expenditure reductions. I am very grateful to Mr. Paterson, our electronic communications team, and the organizations who participated in the Pilot Project for their efforts.

Extensive changes to the *Manitoba Labour Board Rules of Procedure*, developed in the previous reporting period, came into force on May 1, 2015. These changes, which were discussed at a well-attended public meeting, modernized the Board's procedures and have proven effective in improving upon the timeliness of Board hearings and decisions.

The Board also held its bi-annual Seminar in May of 2015. The Seminar provided Board Members and senior staff with the opportunity to review a broad range of topics including changes to Board practices and recent Board and Court decisions.

I would like to express my gratitude to the Vice-Chairpersons, Members and staff for their service. I am very grateful for their continuing guidance and expertise, and their dedication to the Board and its activities.

Colin S. Robinson  
Chairperson

**MESSAGE DU PRÉSIDENT  
DE LA  
COMMISSION DU TRAVAIL DU MANITOBA**

J'ai le plaisir de remettre le rapport annuel 2015-2016 faisant état des activités de la Commission du travail du Manitoba du 1<sup>er</sup> avril 2015 au 31 mars 2016.

Au cours de cette période de déclaration, la Commission a respecté son mandat et a rempli ses objectifs. La Commission a continué d'élaborer et de mettre en œuvre des initiatives conçues pour moderniser ses pratiques et ses procédures. À la suite de ces initiatives, la Commission a amélioré sa capacité à régler des différends de manière efficace et rapide, a permis au public d'avoir un accès plus facile à ses services, et a réduit les dépenses facultatives.

Un élément central des récentes initiatives de la Commission est son engagement à étendre l'utilisation de la médiation et de la gestion des cas pour aider les parties à cerner ou à résoudre les différends sans nécessairement passer par des audiences officielles. En avril 2015, les agents de la Commission du travail ont reçu une formation approfondie sur la médiation fondée sur les compétences pour consolider leur considérable expérience de médiation. Le résultat de ces efforts a été une forte hausse du nombre de cas que la Commission a aidé à résoudre sans audience entre les parties. On a aussi mis en place des conférences de gestion de cas avant l'audience afin de simplifier les audiences qui ont lieu et de planifier plus efficacement les cas. La Commission a aussi élaboré un guide en langage simple pour aider les parties, en particulier les personnes qui se représentent elles-mêmes, à se préparer aux audiences.

Au cours de cette période de déclaration, la Commission a aussi créé et mis en œuvre une stratégie de communication électronique. Cette initiative a été menée par le directeur général de la Commission, M. Dale Paterson, de concert avec l'équipe des communications électroniques de la Commission. En collaboration avec la communauté des relations du travail, l'équipe a fait des recherches, a créé et a mis en place une approche globale des communications électroniques. Au début de novembre 2015, un projet pilote a été lancé avec la participation d'un certain nombre de sections du contentieux et de cabinets d'avocats locaux. Après avoir évalué le projet pilote, la nouvelle stratégie de communications électroniques de la Commission a été mise en œuvre en janvier 2016. J'ai le plaisir d'indiquer que cette initiative a été très réussie et a été très bien accueillie par les personnes qui communiquent avec la Commission et, de plus, elle a entraîné de fortes réductions des dépenses. Je suis très reconnaissant à M. Paterson, à notre équipe de communications électroniques et aux organismes qui ont participé au projet pilote pour leurs efforts.

Des changements profonds au Règlement sur les règles de procédure de la Commission du travail, élaborés au cours de la dernière période de déclaration, sont entrés en vigueur le 1<sup>er</sup> mai 2015. Ces changements, qui ont été discutés lors d'une réunion publique où la participation a été très élevée, ont modernisé les procédures de la Commission et ont prouvé leur efficacité en améliorant la rapidité de la tenue des audiences et du processus de décision de la Commission.

La Commission a aussi tenu son séminaire semestriel en mai 2015. Ce séminaire a donné aux membres du conseil d'administration et aux cadres dirigeants l'occasion de revoir un large éventail de sujets, y compris des changements aux pratiques de la Commission et des décisions récentes des tribunaux et de la Commission.

Je tiens à remercier de leurs services les vice-présidents, les membres et le personnel. Je leur suis très reconnaissant de leur expertise et de leurs conseils ainsi que de leur dévouement envers la Commission et ses activités.

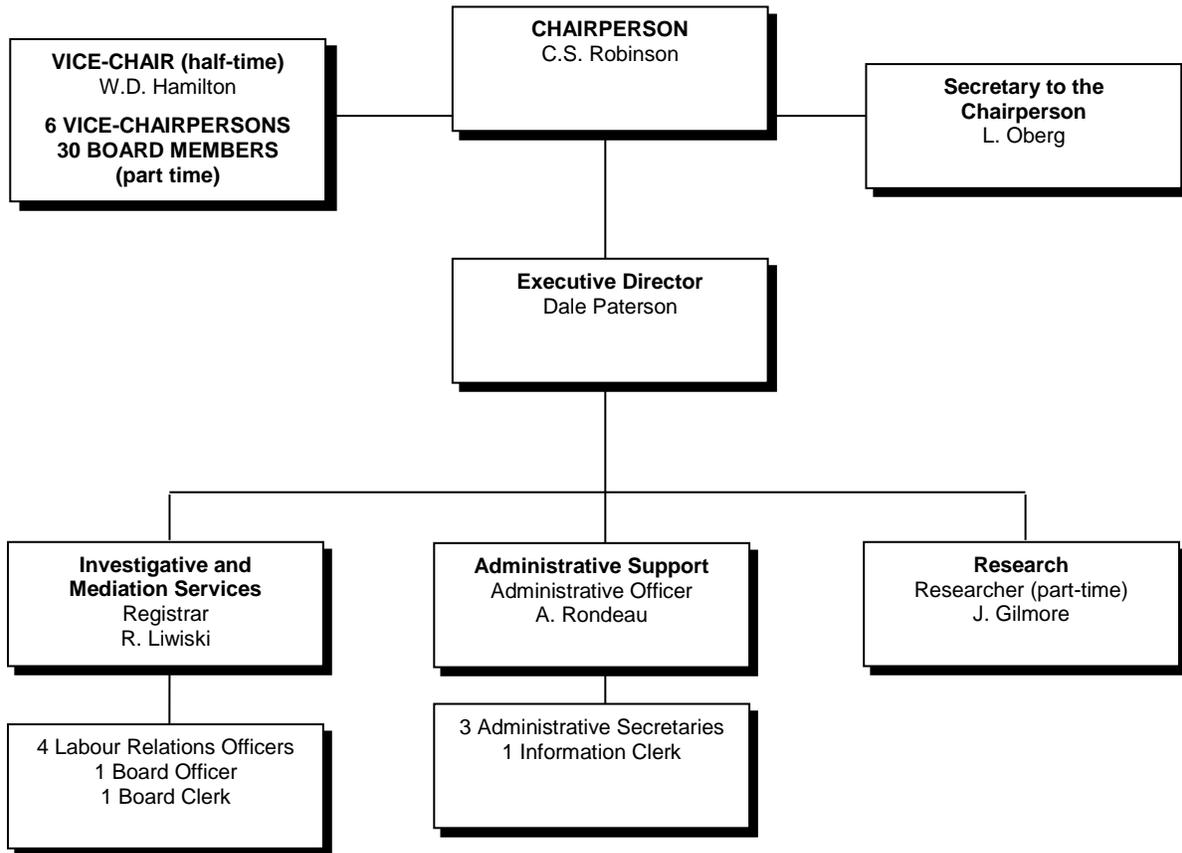
Colin S. Robinson  
Président

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**Manitoba Labour Board  
Organization Chart  
as of March 31, 2016**



# The Manitoba Labour Board

## INTRODUCTION

### Report Structure

The Manitoba Labour Board (the Board) annual report is prepared pursuant to subsection 138(14) of *The Labour Relations Act*.

"The report shall contain an account of the activities and operations of the board, the full text or summary of significant board and judicial decisions related to the board's responsibilities under this and any other Act of the Legislature, and the full text of any guidelines or practice notes which the board issued during the fiscal year."

### Vision and Mission

To further harmonious relations between employers and employees  
by encouraging the practice and procedure of collective bargaining  
between employers and unions  
as the freely designated representatives of employees.

### Objectives

- to discharge its statutory responsibilities in an impartial, efficient, knowledgeable, timely, respectful and consistent manner;
- to encourage and facilitate the settlement of disputes through appropriate alternative dispute resolution mechanisms where possible while providing adjudication where necessary;
- to foster understanding of the rights, responsibilities and procedures set forth in the legislation under which it has responsibilities;
- to maintain current and effective rules, practices and procedures which are clear, accessible, fair and impartial; and
- to support constructive and harmonious labour relations between employers, employees and unions.

### Role

The Board is an independent and autonomous specialist tribunal responsible for the fair and efficient administration and adjudication of responsibilities assigned to it under *The Labour Relations Act* and any other Act of the Consolidated Statutes of Manitoba.

The majority of the applications are filed under *The Labour Relations Act (L10)* and *The Employment Standards Code (E110)*. The Board is also responsible for the administration and/or adjudication of matters arising under certain sections of the following Acts:

*The Apprenticeship and Certification Act (A110)*  
*The Construction Industry Wages Act (C190)*  
*The Elections Act (E30)*  
*The Essential Services Act (Government and Child and Family Services) (E145)*  
*The Essential Services Act (Health Care) (E146)*  
*The Pay Equity Act (P13)*  
*The Public Interest Disclosure (Whistleblower Protection) Act (P217)*  
*The Public Schools Act (P250)*  
*The Remembrance Day Act (R80)*  
*The Victims' Bill of Rights (V55)*  
*The Worker Recruitment and Protection Act (W197)*  
*The Workplace Safety and Health Act (W210)*

***The Labour Relations Act***

The Board receives and processes applications regarding union certification, decertification, amended certificates, alleged unfair labour practices, expedited arbitration, first contracts, board rulings, duty of fair representation, successor rights, religious objectors and other applications pursuant to the *Act*.

***The Employment Standards Code***

The Board hears complaints referred to it by the Employment Standards Division regarding wages, statutory holiday pay, vacation pay and wages in lieu of notice, including provisions pursuant to *The Construction Industry Wages Act* and *The Remembrance Day Act*. Until the April 30, 2007 amendment to the *Code*, the Board also handled hours of work exemption requests and applications for exemption from the weekly day of rest.

***The Apprenticeship and Certification Act***

The person named in a compliance order or required to pay an administrative penalty may appeal the matter to the Board within 14 days after receiving a notice under subsection 36(6) or 37(5) of the *Act*.

***The Elections Act***

A candidate, election officer, enumerator or an election volunteer for a candidate or a registered political party may file an application relating to requests for leave from employment under section 24.2 of the *Act*. An employer may apply to the chairperson of the Board to request an exemption from the requirement to grant a leave under section 24.2 of the *Act*, if the leave would be detrimental to the employer's operations.

***The Essential Services Act***

The Board receives and processes applications from unions for a variation of the number of employees who must work during a work stoppage in order to maintain essential services.

***The Pay Equity Act***

If parties fail to reach an agreement on an issue of pay equity, within the time frames stipulated in the *Act*, any party may refer the matter to the Board for adjudication.

***The Public Interest Disclosure (Whistleblower Protection) Act***

Pursuant to section 28 of the *Act*, an employee or former employee who alleges that a reprisal has been taken against them may file a written complaint with the Board. If the Board determines that a reprisal has been taken against the complainant contrary to section 27, the Board may order one or more of the following measures to be taken:

- (a) permit the complainant to return to his or her duties;
- (b) reinstate the complainant or pay damages to the complainant, if the board considers that the trust relationship between the parties cannot be restored;
- (c) pay compensation to the complainant in an amount not greater than the remuneration that the board considers would, but for the reprisal, have been paid to the complainant;
- (d) pay an amount to the complainant equal to any expenses and any other financial losses that the complainant has incurred as a direct result of the reprisal;
- (e) cease an activity that constitutes the reprisal;
- (f) rectify a situation resulting from the reprisal;
- (g) do or refrain from doing anything in order to remedy any consequence of the reprisal.

***The Public Schools Act***

Certain provisions of *The Labour Relations Act* apply to teachers, principals, bargaining agents for units of teachers and school boards.

***The Victims' Bill of Rights***

Victims of crime may file applications with the Board relating to requests for time off work, without pay, to attend the trial of the person accused of committing the offence, for the purpose of testifying, presenting a victim impact statement or observing any sentencing of the accused person.

***The Worker Recruitment and Protection Act***

The director of the Employment Standards Division is empowered, on behalf of a foreign worker, a child performer or family member on behalf of a child performer, to issue orders to recover the amount of any prohibited recruitment fees or costs charged, directly or indirectly, by the employer or a person engaged in recruitment of the foreign worker or child performer and can also, by order, recover from an employer any reduction in wages or recover any reduction/elimination of a benefit or other term or condition of employment where the reduction is made to cover the costs of recruitment, all of which is contrary to sections 15, 16 and 17 of the *Act*. The Board's jurisdiction is triggered when a person affected by a director's order wishes to appeal an order of the director under any of these provisions. The Board hears the appeals pursuant to the provisions of *The Employment Standards Code*.

***The Workplace Safety and Health Act***

Any person directly affected by an order or decision of a safety and health officer may appeal the order or decision to the director of Workplace Safety & Health. The director may decide the matter or refer the matter to the Board for determination. Any person affected by an order or decision of the director of Workplace Safety & Health may also appeal to the Board to have the order or decision set aside or varied.

# MANITOBA LABOUR BOARD MEMBERS

In the year under review, the Board consisted of the following members.

## Chairperson

### **Colin S. Robinson**

Appointed as chairperson in 2012, Colin Robinson previously served as the Board's full-time vice-chairperson since 2003. Mr. Robinson holds a Bachelor of Arts Honours degree from the University of Manitoba and a Bachelor of Laws degree from Osgoode Hall Law School. He was called to the Bar in Manitoba in 1995 and practiced primarily in the fields of labour and administrative law prior to being appointed to the Board. In addition, Mr. Robinson serves on the executive of the Manitoba Council of Administrative Tribunals and carries on an active practice as an interest and grievance arbitrator and mediator in Manitoba.

## Vice-Chairpersons

### **Kristin L. Gibson**

Appointed on a part-time basis in 2013, Kristin Gibson is a partner in the Winnipeg law firm Aikins, MacAulay & Thorvaldson LLP. She carries on practice as a labour and employment lawyer, and as a labour mediator and arbitrator.

### **A. Blair Graham, Q.C.**

Appointed on a part-time basis in 2006, Blair Graham holds a Bachelor of Arts degree and a Bachelor of Laws degree from the University of Manitoba. He practices law as a partner in the law firm of Thompson Dorfman Sweatman LLP with an emphasis on civil litigation, administrative law and labour arbitration as a chairperson. He was appointed a Queen's Counsel in December 1992, and inducted into the American College of Trial Lawyers in October 2004. He has been active as a chairperson in labour arbitration matters since 1997.

### **William (Bill) D. Hamilton**

After serving as a part-time vice-chairperson from 2002 to 2005, William Hamilton served as the full-time chairperson of the Board from November 1, 2005 to October 31, 2012. Effective November 1, 2012, he was appointed as a part-time vice-chairperson serving on a half-time basis. He holds a Bachelor of Arts degree from the University of Winnipeg and a Bachelor of Laws degree from the University of Manitoba. For many years, Mr. Hamilton has carried on, and continues to carry on, an active practice as an interest and grievance arbitrator/mediator in Manitoba.

### **M. Lynne Harrison**

Appointed on a part-time basis in 2008, Lynne Harrison holds a Bachelor of Arts degree from Laval University, a Secondary Education Teaching Certificate from Laval University and a Bachelor of Laws degree from the University of Manitoba. She also serves as an adjudicator under *The Human Rights Code* (Manitoba). She practices law as a partner in the law firm of Thompson Dorfman Sweatman LLP. Ms. Harrison retired from the Board in 2016.

### **Diane E. Jones, Q.C.**

Appointed on a part-time basis since 1985, Diane Jones holds a Bachelor of Arts Honours degree from the University of Winnipeg and a Bachelor of Laws degree from the University of Manitoba. She is currently active as a chairperson in arbitration matters.

### **Michael D. Werier**

Appointed on a part-time basis in 2006, Michael Werier is a partner in the Winnipeg law firm of D'Arcy & Deacon LLP. He carries on a practice as an arbitrator/mediator in Manitoba. He is currently chairperson of the Manitoba Labour Management Review Committee and chairperson of the Board of Directors of the Workers Compensation Board of Manitoba.

**Gavin M. Wood**

Appointed on a part-time basis in 2006, Gavin Wood holds a Bachelor of Laws degree from the University of Manitoba and a Masters of Laws degree from Columbia University in New York City. He is presently practicing as a sole practitioner under the firm name of Wood Orle Litigation Lawyers. He is currently active as a chairperson in arbitration matters.

**New Vice-Chairperson****Karine Pelletier**

Appointed on a part-time basis in 2016, Karine Pelletier holds a Bachelor of Arts degree from l'Université de Saint-Boniface, a Bachelor of Laws degree from l'Université d'Ottawa and a Masters of Law from the University of Ottawa. She also serves as a panel member under The Vulnerable Persons Living with a Mental Disability Act. Ms. Pelletier practices law with the Winnipeg Regional Health Authority in the areas of administrative law and labour and employment.

**Employer Representatives****Jim H. Baker, CPA CA**

Appointed in 2000, Jim Baker is president and chief executive officer of the Manitoba Hotel Association (MHA). Prior to his employment with the MHA, he was a partner in a chartered accountancy firm for 20 years. He is an executive member of the Hotel Association of Canada and past chairperson of the Manitoba Tourism Education Council. He was co-chairperson of the athletes' villages during the 1999 Pan Am Games and has been active as a community volunteer.

**Elizabeth M. (Betty) Black**

Appointed in 1985, Betty Black is a Fellow Certified Human Resource Professional (FCHRP) and holds a certificate in Human Resource Management from the University of Manitoba. She has spent over 30 years in senior human resource management roles in the private and public sectors in both union and non-union environments in the areas of manufacturing, hospitality, financial services and consulting. She is a member and past president of the Human Resource Management Association of Manitoba and has instructed in the Human Resource Management Certificate program at the University of Manitoba. She has served in voluntary leadership roles with the YMCA-YWCA of Winnipeg, the United Way of Winnipeg and numerous other community organizations.

**Christiane Y. Devlin**

Appointed in 2002, Christiane Devlin has held senior management positions in human resources, integrating human resources within the business needs of companies in the transportation, communication and printing, agriculture, manufacturing, health care, and retail co-operatives. She is currently the manager, Human Resources with the Kleysen Group. Ms. Devlin is bilingual and her human resource management experience includes unionized and non-unionized workplaces. She also sits as a part-time commissioner at the Appeal Commission.

**Tom Goodman**

Appointed in 2013, Tom Goodman retired from Hudbay Minerals Inc. in June 2012 having served in a variety of senior executive roles for over 34 years both in Canada and internationally. These roles have included oversight and/or direct responsibility for human resources including labour relations for organizations of more than 1,500 employees in both union and non-union environments. He is a past director and past chairman of the Mining Association of Manitoba. He is a member of the Mining Minister's Mining Council, chairman of the Hudbay Environment Health and Safety Committee, and a director of the Technical Committee and the Audit Committee. He is a member of the Governing Council of the University College of the North. He was elected to the Board of Directors of Hudbay Minerals Inc. upon his retirement in June 2012.

**Colleen Johnston**

Appointed in 1993, Colleen Johnston is the director, Total Rewards, Health and Wellness for Manitoba Liquor & Lotteries and the president of Integre Human Resource Consulting. She is a graduate of the University of Manitoba with a Bachelor of Education degree and is a Fellow, Certified Human Resource Professional (FCHRP). She is a past chair of the Human Resource Management Association of Manitoba (HRMAM), a founding director of the Canadian Council of Human Resource Associations and a former member of the Regulatory Review Committee of the Canada Labour Code in Ottawa. She has represented Canadian employers at the United Nations in Geneva and is currently chair of the Board of Directors of CAA Manitoba and a member of the Institute of Corporate Directors.

**Paul J. LaBossiere**

Appointed in 1999, Paul LaBossiere retired from the position of president and CEO of P.M.L. Maintenance Ltd. He is past co-chairperson of the Employers Task Force on Workers Compensation, a past executive member of the Winnipeg Chamber of Commerce, past president, parliamentarian, and government affairs advisor of the Building Owners and Managers Association, a member of the Manitoba Employers Council and is a frequent international speaker on issues pertaining to the maintenance and service industries. He is a past member of the Board of Directors of the Building Services Contractors Association International (37 countries). He is the past board president of the Prairie Theatre Exchange (PTE) and a past trustee of the PTE Foundation Trust. His past affiliations include vice-chairperson and treasurer of the Winnipeg Chamber of Commerce and on the Advisory Committee for the Continuing Education Department at the University of Manitoba. He is a past trustee of Opimian Vineyard Trust and vice-president of the Winnipeg Jazz Orchestra.

**Chris W. Lorenc, B.A., LL.B.**

Appointed in 2003, Chris Lorenc is president of the Manitoba Heavy Construction Association, president of the Western Canada Roadbuilders and Heavy Construction Association, founding board member of the Manitoba Construction Sector Council, chairperson of the Board of CentrePort Canada Inc, and member of the Blue Bomber Board of Directors and its Executive Committee. He has an extensive background in public policy writing related to trade, transportation, infrastructure, workplace safety and health. A lawyer by background, he graduated from the University of Manitoba with Bachelor of Arts and Bachelor of Laws degrees. He is a former Winnipeg city councillor having served for nine years between 1983 and 1992. During his tenure on council, he chaired a number of standing committees and held a variety of senior positions. He has also served and continues to serve on a number of boards of business, cultural, community and hospital organizations.

**Harvey Miller**

Appointed in 2010, Harvey Miller is the past president of the Merit Contractors Association of Manitoba. He holds a Bachelor of Arts degree from the University of Manitoba and a Master of Arts degree in Psychology from the University of Victoria. He has extensive senior management experience in both public and not-for-profit agencies, including the Worker Advisor Office and the Workers Compensation Board of Manitoba. He has served on numerous volunteer boards, and is a past president of the Winnipeg Mental Health Association and the Manitoba Biathlon Association.

**Yvette Milner**

Appointed in 1996, Yvette Milner is president of Merit Contractors Association, an industry association providing services to open shop contractors in Manitoba. She also owns a consulting company specializing in assisting companies to manage injury and illness in the workplace. Ms. Milner's background is in human resources, safety and disability management. Active in the Manitoba business community, she is involved with the Manitoba Employers Council, and the Manitoba and Winnipeg Chambers of Commerce.

**Brian Peto**

Appointed in 2011, Brian Peto has extensive senior human resource experience in the retail, manufacturing and financial services sectors. He has served on the board of directors of one of Canada's largest defined contribution pension plans. He is a graduate of the University of Winnipeg and Red River Community College. Mr. Peto is a former cabinet member of the United Way of Winnipeg and past president of the Human Resource Management Association of Manitoba.

**Lloyd Schreyer**

Appointed in 2015, Lloyd Schreyer has had a lengthy career in human resources and labour relations. From 2000 until his retirement in 2014, he was secretary to the Compensation Committee of Cabinet, Government of Manitoba, where he was responsible for liaison with employers and unions in the Manitoba public sector regarding collective bargaining and labour relations. From 1978 to 2000, he was employed in human resources at the University of Manitoba, where he progressed to director of the department. He began his career in 1972 as a business agent with the Operating Engineers Union. He has served on the Manitoba Labour Management Review Committee, the Board of Directors of Manfor Ltd., Selkirk Mental Health Centre and Red River College. He is a graduate of the University of Manitoba.

**Darcy Strutinsky**

Appointed in 2008, Darcy Strutinsky concluded a lengthy career in senior healthcare human resource leadership positions in 2012. He now provides independent human resource, labour relations and respectful workplace consulting services to employers in the private and public sectors. He is a member of the Manitoba Labour Management Review Committee and is a board member of the Children's Hospital Foundation of Manitoba.

**Denis E. Sutton**

Appointed in 1983, Denis Sutton has had extensive training in business administration and human resource management and has extensive experience in labour relations in both the private and public sectors. He has served as chairperson of the Industrial Relations Committee, Manitoba Branch of the Canadian Manufacturers Association, chairperson of the Western Grain Elevator Association Human Resource Committee, chairperson of the Conference Board of Canada, Council of Human Resource Executives (West) and is an active member of many labour relations committees and associations. He is presently employed as vice-president of Human Resources at Motor Coach Industries International.

**Peter Wightman**

Appointed in 2013, Peter Wightman is the executive director of the Construction Labour Relations Association of Manitoba, a position he has held since 1996. Previously, he was Manitoba Health Organization's senior labour relations negotiator/consultant providing collective bargaining and other labour relations services to all of Manitoba's health care employers and prior to that was a senior labour relations officer at the corporate headquarters of the Canada Post Corporation in Ottawa. Mr. Wightman chairs the employer caucus of the Manitoba Labour Management Review Committee, is a founding member of the Government of Manitoba's ongoing Construction Industry Wages Act Review Committee, and chairs a Provincial Trade Advisory Committee for the Manitoba Apprenticeship Branch. Mr. Wightman is also chairman of eight Manitoba Construction Industry Pension and Health and Welfare Benefit Trust Funds and is a Canadian director on the International Foundation of Employee Benefit Plans Board of Directors. A graduate of Carleton University in Ottawa, he holds a bachelor's degree in economics and law and has been engaged in the field of labour relations for over 25 years.

**Jim Witiuk**

Appointed in 2004, Jim Witiuk is the former director of labour relations for Sobeys West Inc. with responsibility for labour relations matters in Manitoba, Saskatchewan and Ontario. He retired in 2016. He sits on a number of trustee health and welfare and pension plans as a management trustee and is a member of and sits on the Canadian Board of the International Foundation of Employee Benefit Plans. He is a past member of the Employment and Immigration Board of Referees. He serves on the Manitoba Labour Management Review Committee, serves on that group's Arbitration Advisory Sub-Committee and is an active member of the Manitoba Employers Council. Mr. Witiuk is also on the Board of Directors of MEBCO (Multi Employee Benefit Plan Council of Canada). He is a graduate of Carleton University in Ottawa.

## **Employee Representatives**

### **L. Lea Baturin**

Appointed in 2007, Lea Baturin was employed as a national representative with the Communications, Energy and Paperworkers Union of Canada (CEP - now Unifor) for over 18 years, dealing primarily with grievance arbitration matters, collective bargaining and steward education in the industrial sectors of telecommunications, broadcasting and manufacturing. Her educational background includes a Bachelor of Arts degree and a Bachelor of Laws degree from the University of Manitoba. Ms. Baturin received her call to the Manitoba Bar in 1981 and worked as a lawyer at Legal Aid Manitoba and at Myers Weinberg LLP before joining CEP as staff. During her employment as a union representative, she was a member of the Manitoba Federation of Labour (MFL) and the MFL Women's Committee. Ms. Baturin retired from her position with the union in 2014.

### **Beatrice Bruske**

Appointed in 2007, Beatrice Bruske has been employed since 1993 as a union representative/negotiator for the United Food and Commercial Workers Union, Local No. 832 (UFCW, Local 832). She has worked as a servicing representative dealing with grievances, negotiations and arbitrations. She worked as a full-time negotiator from 2004 to 2011. Currently, she is the secretary treasurer of her local and in this capacity is involved in the administration of the local and continues to negotiate collective agreements. She also represents the UFCW Local 832 on the Manitoba Federation of Labour Executive Council (MFL) and is the co-chair of the MFL Women's Committee. She is a trustee on a number of health and welfare benefit plans. She graduated from the University of Manitoba with an Arts degree in Labour Studies.

### **Bill Comstock**

Appointed in 2013, Bill Comstock worked in a number of human resource positions early in his career. He had been employed by the Manitoba Government and General Employees' Union for 29 years, retiring in 2006 as director of Negotiating Services. In 2014, he retired from the Winnipeg Association of Public Service Officers where he had been providing labour relations services on a part-time basis. Mr. Comstock was a founding member of Manitoba Special Olympics. He was a member of the Manitoba Labour Management Review Committee and serves on the board of St. Amant.

### **Abs Diza**

Appointed in 2015, Abs Diza has been employed as a staff union representative for Workers United Canada Council since June 2006. She is actively involved in collective bargaining, grievance handling and guiding members with their health benefits. Mrs. Diza is also currently a vice-president of the Manitoba Federation of Labour.

### **Sheila Gordon**

Appointed in 2013, Sheila Gordon has been employed with the Manitoba Government and General Employees' Union (MGEU) since 1991. As a staff representative, she worked with members to resolve issues, process grievances and negotiate collective agreements in a variety of different public sector workplaces. In 2009, she was appointed MGEU director of negotiations, responsible for negotiating the Government Employees' Master Agreement, and for supporting a team of staff representatives working with members of the Manitoba Civil Service. More recently, Ms. Gordon has assumed the position of director of negotiations, responsible for all negotiations undertaken by the union. Ms. Gordon's educational background includes a Bachelor of Social Work degree from the University of Manitoba and a Master of Social Work degree from Carleton University.

### **Tom Henderson**

Appointed in 2016, Tom Henderson is employed by the Manitoba Nurses Union (MNU) as a workplace safety and health officer, as well as working in labour relations, since 2002. Prior to working with the MNU, he was employed in the private sector within the aerospace industry and has held a number of leadership roles including local union president, bargaining committee chairperson, and local union discussion leader. As a labour relations officer, he deals with grievance arbitration, collective bargaining and the delivery of specific membership training needs as required. He is a certified health and safety professional and provides the MNU, and its leadership, with workplace safety and health advice and also handles files related to workplace safety and health with employers where MNU represents nurses.

He sits on the Provincial Violence Prevention in Healthcare Steering Committee and co-chairs the Joint Employer/Manitoba Council of Healthcare Unions Workplace Safety and Health Committee.

**Maureen Morrison**

Appointed in 1983, Maureen Morrison worked for the Canadian Union of Public Employees (CUPE) for many years, first as a servicing representative and then as equality representative. Her work was primarily in the areas of pay and employment equity, harassment and discrimination, accommodation issues, and other human rights concerns.

**James Murphy**

Appointed in 1999, James Murphy was the Canadian director of the International Union of Operating Engineers (IUOE) from August 2011 until he retired in January 2015. From 1985 to 1987, he was the training coordinator for Local 901 and was a business representative for the local from 1987 through 1995. In 1995, he was elected as the business manager of IUOE Local 987. He held that position until his appointment as Canadian director. Prior to 1985, he was a certified crane operator and had been an active member of the IUOE since the late 1960s. He was the past president of the Allied Hydro Council of Manitoba and the Manitoba Building and Construction Trades Council.

**Edward (Dale) Neal**

Appointed in 2013, Dale Neal was employed with the Manitoba Government and General Employees' Union and has since retired. He is currently employed with the Winnipeg Association of Public Service Officers. Mr. Neal has been an activist in the labour movement for over 30 years. Mr. Neal's term expired December 31, 2015.

**Shelley A. Neel**

Appointed in 2014, Shelley Neel worked as a staff representative for the Manitoba Government and General Employees' Union from 2002 until her retirement in January 2015. She was actively involved in member education, collective bargaining, grievance handling and other activities related to the needs of the membership. Previously, Ms. Neel worked for a rural health authority and the Workers Compensation Board.

**Sandra R.M. Oakley**

Appointed in 2008, Sandra Oakley was employed by the Canadian Union of Public Employees (CUPE) from 1981 to 2013. She worked as a national servicing representative, dealing with negotiations, grievance arbitrations and other labour relations issues, and as an assistant managing director in the Organizing and Servicing Department of CUPE at its national office in Ottawa. She was the regional director for CUPE in Manitoba from October 2002 to March 2013. She is a graduate of the University of Manitoba and the Labour College of Canada. She serves on the Children's Rehabilitation Foundation Board of Directors and on the United Way of Winnipeg's Board of Trustees and was the chairperson of the United Way of Winnipeg's 2014 Campaign. Ms. Oakley is the chairperson of the Board of Directors of the Community Unemployed Help Centre (CUHC) and co-chair of the Manitoba Federation of Non-profit Organizations.

**Rik A. Panciera**

Appointed in 2011, Rik Panciera is currently employed as a national staff representative for the Canadian Union of Public Employees where he has served for the past 19 years. As a staff representative, he deals with daily grievance and labour/management issues, as well as negotiates collective agreements. Mr. Panciera also represents his peers as a regional vice-president for the Canadian Staff Union. In 2015, Mr. Panciera was appointed to the executive council of the College of Pharmacists of Manitoba.

**Ron Stecy**

Appointed in 2013, Ron Stecy retired from his position as executive director of the Manitoba Building and Construction Trades Council. Mr. Stecy holds a Red Seal Journeyman Certificate as a construction electrician. He was elected as business manager of the International Brotherhood of Electrical Workers Local Union 2085 where he represented construction electricians in Manitoba for nine years. During his career, Mr. Stecy has been appointed to numerous boards and committees. Mr. Stecy is a member of the Workers Compensation Board and of the Construction Industry Wages

Act Panel. He is a past member of the Apprenticeship and Certification Board and of the Manitoba Construction Sector Council Board. He has served on the Electrical Trades Advisory Committees at Red River College and Assiniboine Community College. He was a delegate to the Winnipeg Labour Council, secretary-treasurer of the Allied Hydro Council and president of the Manitoba Building and Construction Trades Council. In 2011, Mr. Stecy was appointed to the Manitoba Labour Management Review Committee and the Advisory Council on Workplace Safety and Health. Mr. Stecy's term expired December 31, 2015.

#### **Bobbi Taillefer**

Appointed in 2014, Bobbi Taillefer is the general secretary of the Manitoba Teachers' Society (MTS). Prior to assuming that role, she held positions of assistant general secretary, staff labour representative and bargainer for teachers across the province. Prior to joining MTS, Ms. Taillefer was a high school teacher and principal in Winnipeg. Her educational background includes a Masters in Educational Administration and, undergraduate degrees and certificates in human resources, economics, political sciences and law. Ms. Taillefer is bilingual in French and English.

#### **Sonia E. Taylor**

Appointed in 2005, Sonia Taylor has been employed since 1991 as a union representative with the United Food and Commercial Workers Union, Local No. 832. She is actively involved in grievance handling, negotiations, arbitrations and organizing.

#### **Glenn Tomchak**

Appointed in 2015, Glenn Tomchak has held positions in International Association of Machinists and Aerospace Workers, Local 1953 executive since 1984; including six years as chief steward and 19 years as president, dealing with grievance arbitration matters, collective bargaining and shop issues. In March 2015, he was elected as the directing business representative for District 181. Mr. Tomchak has worked at Motor Coach Industries for over 30 years.

#### **New Members**

##### **Tom Henderson**

Appointed in 2016, Tom Henderson is employed by the Manitoba Nurses Union (MNU) as a workplace safety and health officer, as well as working in labour relations, since 2002. Prior to working with the MNU, he was employed in the private sector within the aerospace industry and has held a number of leadership roles including local union president, bargaining committee chairperson, and local union discussion leader. As a labour relations officer, he deals with grievance arbitration, collective bargaining and the delivery of specific membership training needs as required. He is a certified health and safety professional and provides the MNU, and its leadership, with workplace safety and health advice and also handles files related to workplace safety and health with employers where MNU represents nurses. He sits on the Provincial Violence Prevention in Healthcare Steering Committee and co-chairs the Joint Employer/Manitoba Council of Healthcare Unions Workplace Safety and Health Committee.

##### **Marc Lafond**

Appointed in 2016, Mr. Lafond has been employed as business manager and financial secretary of the International Union of Operating Engineers of Manitoba, Local 987 since 2011. Previous to his employment with the Operating Engineers he was the executive director of OETIM Inc. a crane, heavy equipment and safety training facility from 2006 - 2011, and was a Red Seal mobile crane operator for 1997 - 2006. He currently serves as a trustee on several pension and health and welfare boards and the Manitoba Apprenticeship and Certification Board. He is a graduate of the University of Manitoba Labour Studies program.

## **OPERATIONAL OVERVIEW**

### **Adjudication**

During 2015/16, the Board was comprised of a full-time chairperson, one half-time vice-chairperson, six part-time vice-chairpersons and 30 board members with an equal number of employer and employee representatives. The chairperson is the presiding officer of the Board pursuant to the provisions of *The Labour Relations Act*. Part-time vice-chairpersons and board members are appointed by Order in Council and are paid in accordance with the number of meetings and hearings held throughout the year. The Board does not retain legal counsel on staff; legal services are provided through Civil Legal Services of Manitoba Justice.

### **Investigative and Mediation Services**

Investigative and mediation services is comprised of the registrar, four labour relations officers, one board officer and one board clerk. The registrar, who reports to the executive director who in turn reports to the chairperson, is the official responsible for the supervision of the day-to-day investigative and mediation activities of the Board. The primary responsibility of the registrar is the development and execution of the administrative workload as it relates to the various acts under which the Board derives its adjudicative powers. The executive director and the registrar, in conjunction with the chairperson and board members, are involved in the establishment of Board practice and policy. The registrar, together with the board officers, communicates with all parties and with the public regarding Board policies, procedures and jurisprudence.

Reporting to the registrar are four “labour relations” board officers who are responsible for dealing with various cases and conducting investigations pertaining to the applications filed with the Board, under the varying statutes. They can be appointed to act as Board representatives in an endeavour to effect settlement between parties, reducing the need for costly hearings. The board officers act as returning officers in Board conducted representation votes, attend hearings and assist the registrar in the processing of various applications. They also play a conciliatory role when assisting parties in concluding a first or subsequent collective agreement and they act as mediators during the dispute resolution process. Also reporting to the registrar is a board officer, primarily responsible for processing all referrals from the director of the Employment Standards Division and who is involved in mediation efforts in an attempt to resolve the issues. The board clerk is primarily responsible for the processing of expedited arbitration referrals, and maintaining the Board’s library of collective agreements and union constitution and by-laws files. Both the board officer and board clerk also attend Board hearings.

### **Administrative Services**

The staff of the administrative services and the staff of investigative and mediation services work closely to ensure the expeditious processing of applications. Administrative services is comprised of the administrative officer and five administrative support staff. Reporting to the executive director, the administrative officer is responsible for the day-to-day administrative support of the Board, fiscal control and accountability of operational expenditures and the development and monitoring of office systems and procedures to ensure departmental and government policies are implemented.

Reporting to the administrative officer are four administrative secretaries responsible for the processing of documentation. Also reporting to the administrative officer is the information clerk who is responsible for the case management system and files and responds to information requests from legal counsel, educators and the labour community for name searches, collective agreements and certificates.

### **Research Services**

Reporting to the executive director, the researcher is responsible for providing reports, statistical data, and jurisprudence from other provincial jurisdictions and undertaking other research projects as required by the Board. The researcher summarizes and indexes Written Reasons for Decision and Substantive Orders issued by the Board and compiles the *Index of Written Reasons for Decision*.

## LIBRARY COLLECTION

Copies of these documents can be viewed by the public in the Board's office or made available in accordance with the fee schedule.

- Arbitration awards
- Collective agreements
- Certificates
- Unions' constitution & by-laws
- Written Reasons for Decision and Substantive Orders

## Publications Issued

- *Manitoba Labour Board Annual Report* - a publication disclosing the Board's staffing and membership as well as highlights of significant Board and court decisions and statistics of the various matters dealt with during the reporting period.
- *Index of Written Reasons for Decision* - a publication containing indexes of Written Reasons for Decision and Substantive Orders categorized by topic and employer. Decisions issued under *The Labour Relations Act* are also indexed by section of the *Act*. Until March 31, 2013, this publication had been available on a subscription basis. In June 2014, free access to the Index was made available on the Board's website.

The Board distributes full-text copies of Written Reasons for Decision and Substantive Orders to various publishers, including CanLii, for selection and reprinting in their publications or on their websites.

## Website Contents

<http://www.gov.mb.ca/labour/labbrd>

\*link to French version available

- Board Members\* (list and biographies)
- Forms\*
- "Guide to *The Labour Relations Act*"\* (explanations in lay persons' terms of the various provisions of the *Act* and the role of the Board and Conciliation & Mediation Services)
- Preparing for Your Hearing\*
- Information Bulletins\* (listing and full text)
- Manitoba Labour Board's Arbitrators List\* (list of arbitrators maintained pursuant to section 117(2) of *The Labour Relations Act*)
- Written Reasons for Decision and Substantive Orders (full text, English only, from January 2007 to present, with key word search capability)
- Index of Written Reasons (English only)
- *The Labour Relations Act* and other statutes under which the Board has jurisdiction\*
- Regulations\* (including *The Manitoba Labour Board Rules of Procedure*)
- Library\* (hours)
- Publications\* (list and links for convenient access, including previous annual reports)
- Contact Us\* (information and links to the Government of Manitoba Home Page, other Department of Labour and Immigration divisions, LexisNexis Quicklaw and Statutory Publications)

## E-mail

[mlb@gov.mb.ca](mailto:mlb@gov.mb.ca)

E-mail service is available for general enquiries and requests for information.

If you wish to file an application, contact:

Manitoba Labour Board  
Suite 500, 5<sup>th</sup> Floor  
175 Hargrave Street  
Winnipeg, Manitoba, Canada R3C 3R8  
Telephone: 204-945-2089 Fax: 204-945-1296

## Information Bulletins

The Board produces information bulletins regarding its practice and procedure. The Board did not issue any new or amend any existing information bulletins during the reporting period. The following is a list of the current information bulletins.

1. Review and Reconsideration
2. *Manitoba Labour Board Rules of Procedure* – Regulation 184/87 R - Rule 28 (Part V – Rules of Board Practice)
3. The Certification Process
4. Financial Disclosure
5. Fee Schedule
6. Arbitrators List
7. Filing of Collective Agreements
8. Process for the Settlement of a First Collective Agreement
9. Objections on Applications for Certification
10. *The Employment Standards Code* - Appeal Hearings
11. Reduction of Deposits on Referrals to the Manitoba Labour Board under *The Employment Standards Code*
12. Exemption to Requests for Leave under *The Elections Act*
13. Extension of Time to File Documentation, Notice of Hearing and Request for Adjournment
14. Bargaining Agent's Duty of Fair Representation
15. Disclosure of Personal Information
16. Appointment of Arbitrators
17. Grievance Arbitration/Labour Relations Act
18. The Employment Standards Code – Appeal Hearings – Administrative Penalties

The information bulletins are available on the Board's website at <http://www.gov.mb.ca/labour/labbrd/bulletin.html>. Copies of the information bulletins may be requested from the Board by calling 204-945-2089 or by emailing the Board at [mlb@gov.mb.ca](mailto:mlb@gov.mb.ca).

## SUSTAINABLE DEVELOPMENT

The Board strives to achieve the goals set out in the Sustainable Development Action Plan. In compliance with *The Sustainable Development Act*, the Manitoba Labour Board is committed to ensuring that its activities conform to the principles of sustainable development. The Board promoted sustainable development through various activities including recycling, paper management, use of environmentally preferable products and duplex copying.

## FINANCIAL INFORMATION

<b>Expenditures by Sub-Appropriation</b>	<b>Actual 2015/16 (\$000s)</b>	<b>FTE</b>	<b>Estimate 2015/16 \$(000s)</b>	<b>Variance Over/(Under)</b>	<b>Expl. No.</b>
Total Salaries	1,336	16.50	1,427	(91)	
Total Other Expenditures	215		200	15	
<b>Total Expenditures</b>	<b>1,551</b>	<b>16.50</b>	<b>1,627</b>	<b>(76)</b>	

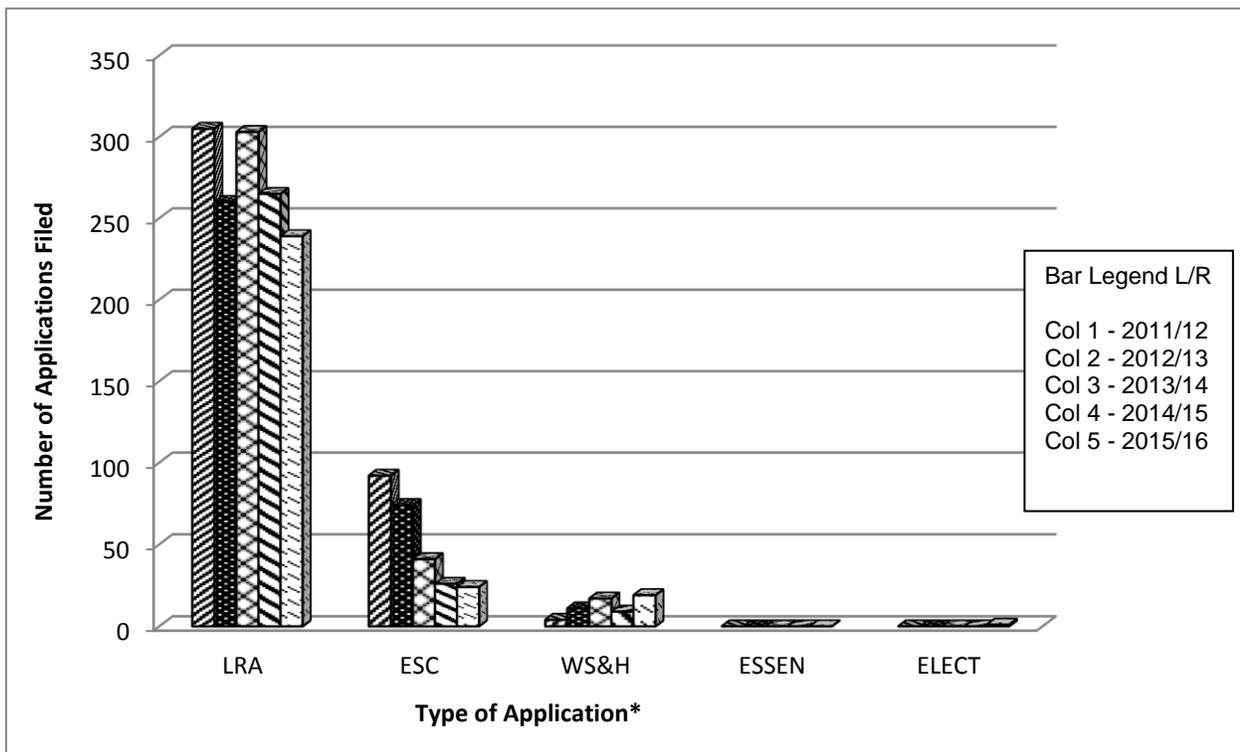
# PERFORMANCE REPORTING

## Summary of Performance

The Manitoba Labour Board adjudicated disputes referred to it under various provincial statutes and its decisions established policy, procedures and precedent and provided for a sounder, more harmonious labour relations environment. The Board conducted formal hearings; however, a significant portion of the Board's workload was administrative in nature. When possible, the Board encouraged the settlement of disputes in an informal manner by appointing a board representative to mediate outstanding issues and complaints. During the 2015/16 fiscal year, issues before the Board were resolved or narrowed in 75 percent of cases where a representative was formally appointed or assisted the parties informally through the dispute mediation process. This represents an increase of 31.5% from the previous fiscal year. In addition, the Board monitored its internal processes to improve efficiencies and expedite processing of applications or referrals.

The number of applications filed with the Manitoba Labour Board during the past 5 years (for the period April 1 to March 31) is indicated in the chart below.

**Manitoba Labour Board  
Number of Applications Filed**



<b>*Types of Applications</b>	
LRA	Labour Relations Act
ESC	Employment Standards Code
WS&H	Workplace Safety and Health Act
ESSEN	Essential Services Act
ELECT	Elections Act

Detailed statistical tables can be found beginning on page 37 of this report.

## Program Performance Measurements

During the past reporting year, the Board continued its initiative to measure service activities and client responsiveness.

### Program Performance Measurements

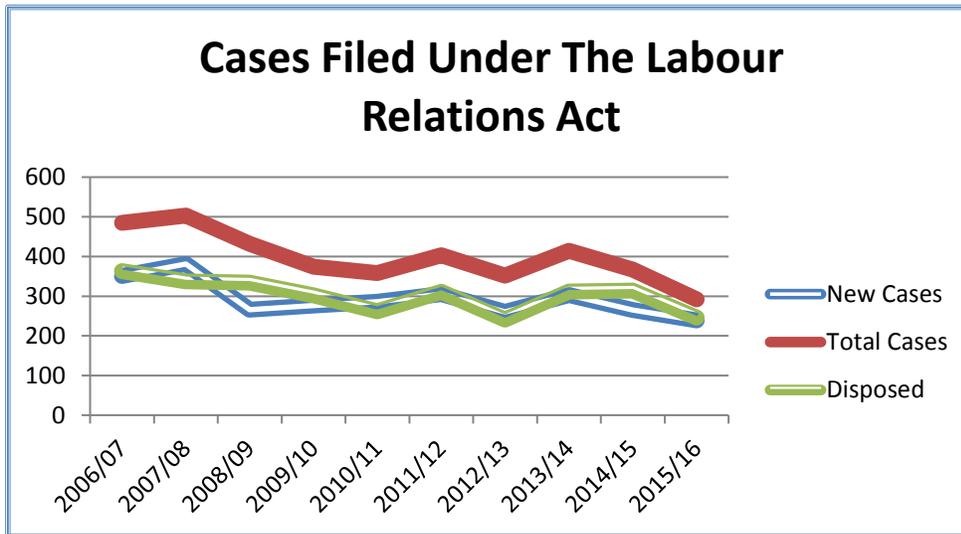
April 1 - March 31

Indicator	Actual 2014/15	Actual 2015/16
Percentage of Cases disposed of	85%	83%
Number of hearing dates scheduled	230	247
Percentage of hearings that proceeded	27%	31%
Number of votes conducted	25	14
Median processing time (calendar days):		
<i>The Labour Relations Act</i>	68.5	45
<i>The Workplace Safety and Health Act<sup>1</sup></i>	137	74
<i>The Essential Services Act</i>	NA	NA
<i>The Elections Act</i>	NA	10
<i>The Employment Standards Code</i>	99.5	110

"NA" - No applications processed in reporting period

<sup>1</sup> - The median processing time for applications filed under *The Workplace Safety and Health Act* was based on the processing of 15 cases in 2014/15 and 14 cases in 2015/16. The processing times are not necessarily indicative of the normal median processing times of the Board.

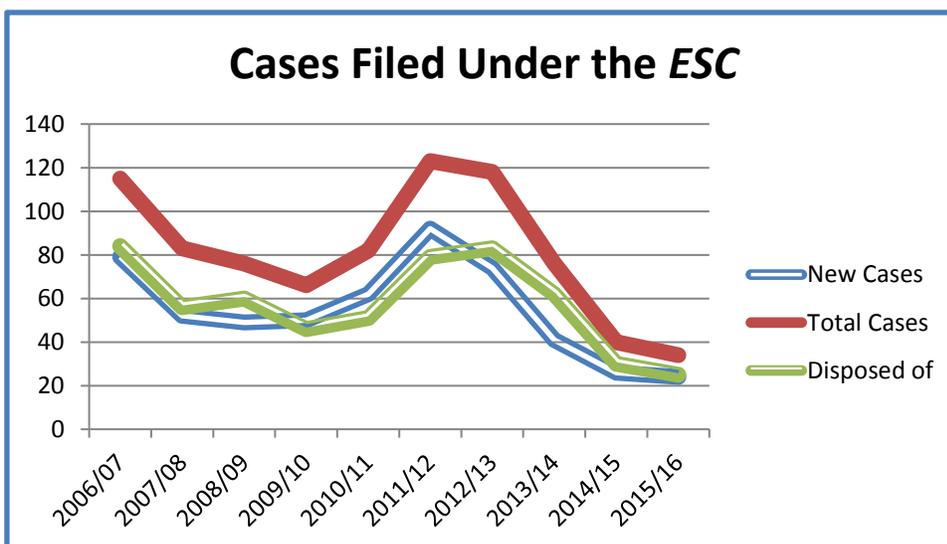
## Ten Year Trends



The ten-year trend in the number of new cases filed under *The Labour Relations Act* ranges from the minimum of 239 applications filed in 2015/16 to a maximum of 381 filed in 2007/08. The average number of applications filed each year is 293 files.

On average, the Board disposed of 302 cases per year which were filed under *The Labour Relations Act*.

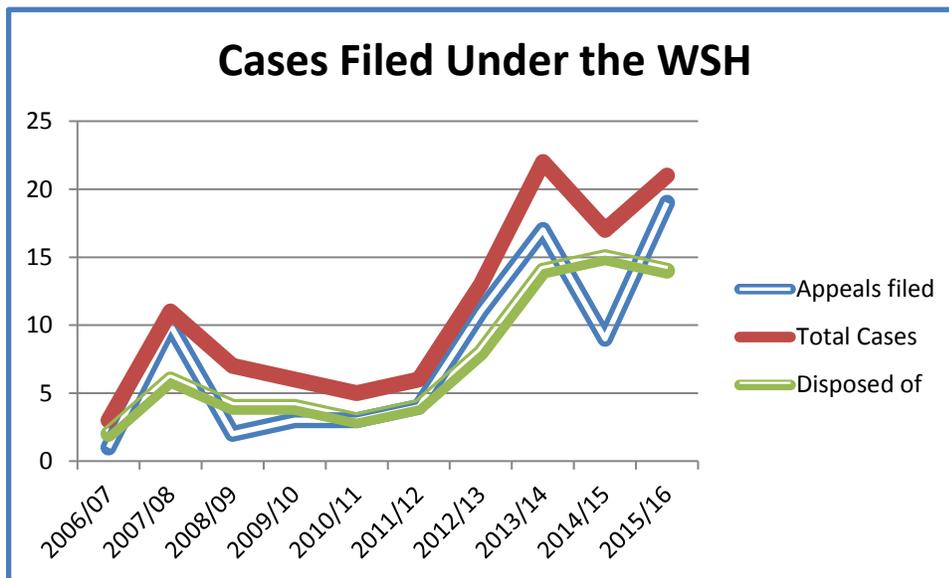
	Min	Max	Avg
Cases Filed	239	381	293
Total Cases	292	503	398
Disposed	241	363	302



The ten-year trend in the number of new cases filed under *The Employment Standards Code* ranges from the minimum of 24 applications filed in 2015/16 to a maximum of 92 filed in 2011/12. The average number of applications filed each year is 55 files.

On average, the Board disposed of 58 cases per year which were filed under *The Employment Standards Code*.

	Min	Max	Avg
New Cases	24	92	55
Total Cases	34	123	81
Disposed of	25	84	58



The ten-year trend in the number of new cases filed under *The Workplace Safety and Health Act* ranges from the minimum of 1 application filed in 2006/07 to a maximum of 19 filed in 2015/16. The average number of applications filed each year is 8 files.

On average, the Board disposed of 7 cases per year which were filed under *The Workplace Safety and Health Act*.

	Min	Max	Avg
New Cases	1	19	8
Total Cases	3	22	1
Disposed of	2	15	7

## **Key Statistics in the Reporting Period**

- 350 cases before the Board (pending from previous period plus new applications);
- 289 (83 percent) of the cases before the Board were disposed of/closed;
- 113 applications scheduled for hearing;
- 76 hearing dates proceeded;
- Board conducted 14 votes; and
- Issued 38 Written Reasons for Decision or Substantive Orders.

## **Ongoing Activities and Strategic Priorities**

- Review and evaluate the organizational structure;
- Develop succession plan for key positions;
- Promote learning plans for staff;
- Conduct bi-annual seminar for vice-chairpersons and Board members;
- Strengthen the capacity to perform mediation;
- Increase use of alternative dispute resolution techniques to effect successful dispute resolutions without the need for formal hearings;
- Improve practices and procedures to increase efficiencies;
- Modernize communications;
- Expand information available on the website for ready access by the labour relations community, legal practitioners, educators and the public;
- Maintain accountability for allocated budget;
- Explore options for creating efficiencies and reducing costs; and,
- Reduce the length of time that is required to finalize matters brought to the Board.

## **Statistiques importantes pendant la période de référence**

- 350 cas ont été portés devant la Commission (demandes en instance depuis l'exercice précédent et nouvelles demandes).
- 83 % des cas portés devant la Commission (289) ont été réglés ou classés.
- Une date d'audience a été fixée pour 113 demandes.
- La Commission a tenu 76 audiences.
- La Commission a tenu 14 votes.
- La Commission a rendu 38 motifs écrits de décision ou ordonnances importantes.

## **Activités en cours et priorités stratégiques**

- Révision et évaluation de la structure organisationnelle.
- Élaboration d'un plan de relève pour des postes de premier plan.
- Promotion de plans d'apprentissage à l'intention du personnel.
- Tenue de séminaires semestriels pour les vice-présidents et les membres de la Commission.
- Renforcement de la capacité d'effectuer la médiation.
- Augmentation de l'utilisation d'autres modes de règlement des différends afin de permettre le règlement de différends sans avoir recours à des audiences officielles.
- Amélioration des pratiques et des procédures et augmentation de l'efficacité.
- Modernisation des communications.
- Diffusion de davantage de renseignements sur le site Web afin qu'ils soient facilement accessibles aux intervenants du secteur des relations du travail, aux professionnels du droit, aux éducateurs et au public.
- Respect de l'obligation redditionnelle pour le budget alloué.
- Exploration des possibilités pour créer des économies et réduire les coûts.
- Réduction du délai requis pour régler les cas portés devant la Commission.

## SUMMARIES OF SIGNIFICANT BOARD DECISIONS

The full text of the Written Reasons and the Substantive Orders issued since January 2007 are available on the Board's website (<http://www.gov.mb.ca/labour/labbrd/decision/index.html>) or from the Board's office, upon payment of the applicable processing fee.

### ***Under The Labour Relations Act***

#### **SOUTHERN HEALTH – SANTÉ SUD - and - Manitoba Government and General Employees' Union**

Case No. 6/15/LRA

May 20, 2015

**APPLICATION FOR CERTIFICATION - Managerial Exclusions** - Union filed application for certification for bargaining unit of all employees employed as Emergency Medical Services Superintendents (EMS Superintendents) - Employer submitted persons in proposed bargaining unit were not "employees" under the *Act* as they performed management functions primarily and were employed in confidential capacity in matters relating to labour relations - Board determined EMS Superintendents performed duties consistent with front-line supervisors and did not perform management duties primarily - Evidence indicated that EMS Superintendents had access to applications for employment and supporting documentation; personnel files; and, information shared during EMS Leadership meetings and labour-management meetings but evidence fell well short of satisfying Board that EMS Superintendents acted in confidential capacity in matters relating to labour relations - Employer did not discharge onus, on balance of probabilities, to prove that EMS Superintendents perform management functions primarily within definition of "employee" in the *Act* - Application granted - Substantive Order.

**APPLICATION FOR CERTIFICATION - Managerial Exclusions** - Union filed application for certification for bargaining unit of all employees employed as Emergency Medical Services Superintendents (EMS Superintendents) - Employer submitted persons in proposed bargaining unit were not "employees" under the *Act* as they performed management functions primarily and were employed in confidential capacity in matters relating to labour relations - On question of whether it would be unfair to a person, Employer, or Union to include the persons in bargaining unit because of those reasons, Board noted that even if it had determined that EMS Superintendents performed management duties primarily or acted in a confidential capacity in matters relating to labour relations, it was not satisfied including them in bargaining unit that included only themselves would result in unfairness - Board has consistently shown willingness to include persons with supervisory authority in bargaining units that do not include persons whom they supervise where no unfairness would result - Application granted - Substantive Order.

#### **Jenkyns Electric (2008) Ltd. - and - Local Union 2085 of the International Brotherhood of Electrical Workers - and - J.A.**

Case No. 57/15/LRA

June 1, 2015

**PETITION OF OBJECTION - BARGAINING RIGHTS - Termination** - Employee, who was a foreman covered by collective agreement, filed Application, including petition signed by majority of affected employees, seeking termination of bargaining rights - Bargaining Agent opposed Application and requested it be dismissed without a vote - Board satisfied petition filed in support of Application represented voluntary wishes of its signatories and met tests and principles outlined in Board's seminal decision of **Integrated Messaging Inc.**, particularly in respect of circumstances surrounding preparation, circulation, and custody of petition and manner in which signatures were obtained and witnessed - Board also satisfied that signing of petition by Employee and others who, at all material times, were employees covered by collective agreement did not taint petition nor affected its validity nor did their signing of petition improperly influenced or affected signing of petition by other employees - Employee established *prima facie* case under section 50(2) of *The Labour Relations Act* - Representation Vote previously conducted to be counted to determine issue - Interim Substantive Order.

**Department of Finance - and - Manitoba Government and General Employees' Union - and - P.B.**

Case No. 110/15/LRA

July 24, 2015

**DUTY OF FAIR REPRESENTATION - *Prima facie* - Undue delay** - Employee did not dispute Union provided him with representation throughout time at issue, nor that he was advised of his right to grieve and provided with opportunity to do so - Application spoke primarily to merits of disciplinary action and penalties, which are not focus of section 20 determination - Board found Union representative attended disciplinary meetings with Employer, Union accepted and processed Employee's grievances once it received authorization from him, and Union Screening Committee reviewed matter and determined grievances would not be filed for arbitration, in part relying on legal opinion that grievances would unlikely be successful - Employee failed to establish that Application was filed in timely manner and had Application been filed in timely fashion, it did not establish violation of section 20(a) or (b) of *The Labour Relations Act* - Application dismissed - Substantive Order.

**Province of Manitoba, Department of Family Services - and - Manitoba Government and General Employees' Union - and - K. G.**

Case No. 117/15/LRA

July 21, 2105

**DUTY OF FAIR REPRESENTATION** - Board satisfied Employee unduly delayed in filing Application which was filed more than six months after date he agreed to settlement of termination grievance - Employee stated he believed his Application was timely and that he had been unaware he could file claim with Board until being advised by Human Rights Commission - Board determined Employee had not provided acceptable explanation for delay - Pursuant to subsection 30(2) of *The Labour Relations Act*, Board determined Application dismissed - Substantive Order.

**Bayview Construction - and - Nathan Koslowsky - CLAC - and - M.B.T.**

Case No. 60/15/LRA

August 28, 2015

**DUTY OF FAIR REPRESENTATION** - Settlement of Grievance - Employee advised Union that he would be willing to settle all of his outstanding grievances - On basis of those instructions, Union negotiated Memorandum of Settlement with Employer – Employee later refused to accept settlement – He asserted Union should have renegotiated settlement agreement when he asked it to do so - He submitted failure to do so constituted bad faith contrary to section 20 of *The Labour Relations Act* – Board held Employee failed to establish *prima facie* breach of section 20 - Settlement of grievance was based upon express instructions provided by Employee and reasonableness of settlement was buttressed by opinion from Union's legal counsel - Failure of Union to secure, or attempt to secure, more favourable terms of settlement when requested to do so by Employee, did not, in circumstances of present case, establish breach of section 20 of the *Act* – Application dismissed – Substantive Order.

**City of Winnipeg – Fleet Management - and - CUPE, Local 500 - and - F.Q., K.T., E.E., B.M.**

Case No. 1/15/LRA

September 15, 2015

**REVIEW - REMEDY** - Union filed Application seeking Review and Reconsideration in respect of Board Order in which Board determined Union acted in arbitrary manner within meaning of clause 20(b) of *The Labour Relations Act* and that it was to forward grievance to Employer – Union insisted that, even if it was arbitrary in its process, there was no merit to grievance, and requirement that it retain counsel to represent interests of Employees and interests of Union would place counsel in conflict *vis-a-vis* legal profession's *Code of Professional Conduct* - Only way remedy would not place counsel in conflict was if grievance had merit - In light of potential conflict of interest, Board amended remedy to state Union was to retain lawyer experienced in labour relations in Manitoba to review merits of Employees' complaint(s) and if opinion concluded that grievance had reasonable prospect of success, Union was obliged to engage, at its cost,

lawyer to represent interests of Employees and Union during grievance and arbitration process and was to file grievance(s) with Employer - Substantive Order.

**Concordia Hospital - and - Manitoba Association of Health Care Professionals - and - M.C.A.**

Case No. 176/14/LRA

September 21, 2015

**DUTY OF FAIR REPRESENTATION** - Employee filed application Seeking Remedy for Alleged Unfair Labour Practice contrary to Section 20 of *The Labour Relations Act* asserting Union breached its duty by failing to make appropriate inquiries and then advise her of her rights and limitations to buy back her pension from time of her termination until commencement of her regular payments under grievance settlement – Board satisfied that lawyer for Union advised Employee’s lawyer that Union agreed to all proposed conditions of settlement except on pension buyback issue it could not accept condition related to obligation that may or may not be owed by third party – Board determined Employee achieved, with input and advice from her lawyer, reasonable settlement and “buyer’s remorse” *ex post facto* cannot be foundation for Section 20 complaint - Board also noted Application, when filed, was primarily based on unreasonable delay in Employee receiving settlement payments, and “buy back” issue was first raised when Employee filed “amending” material five months after terms of settlement had been concluded, with finality – Application dismissed - Substantive Order.

**Brandon School Division - and - Canadian Union of Public Employees, Local 737 - and - J.K.R.**

Case No. 59/15/LRA

December 23, 2015

**DUTY OF FAIR REPRESENTATION - Arbitrary Conduct - Bad Faith** - Employee filed Application seeking remedy for alleged unfair labour practice contrary to section 20 of *The Labour Relations Act* submitting Union’s decisions relating to his grievance were based upon incomplete facts as a result of a perfunctory investigation, and complained that the legal opinion was based on incorrect or incomplete facts because he was denied any meaningful involvement in process – Board determined Union acted in arbitrary manner and in bad faith contrary to subsection 20(b) of the *Act* - During Grievance Committee meeting, Applicant was treated in dismissive, indifferent, summary, non-caring and perfunctory manner - National Representative failed to respond to Applicant’s questions, indicated result of matter prior to meeting concluding and prior to Grievance Committee’s deliberation, and failed to consider Applicant’s submissions and perspectives which amounted to arbitrary conduct - Moreover, hostility and/or ill-will exhibited by National Representative during Grievance Committee meeting constituted bad faith - Applicant raised issues with respect to certain factual determinations in the legal opinion which were serious and significant enough to require Union defer making any decision with respect to grievance until those facts could be reviewed by lawyer who prepared legal opinion - Failure to do so was failure to direct one’s mind to merits of matter or to inquire into or to act on available evidence which amounted to arbitrary conduct prohibited by section 20 of the *Act* – Application granted – Substantive Order.

**D.H. - and - IBEW (2085)**

Case No. 248/15/LRA

January 7, 2016

**UNFAIR LABOUR PRACTICE - Internal Union Affairs** - As a result of Applicant’s termination of employment for possession of marijuana, Union suspended his union membership in accordance with Union’s bylaws - Applicant filed Application seeking remedy for alleged unfair labour practice claiming that Union violated subsections 19(c) and (d) of *The Labour Relations Act* when it unfairly suspended his membership by refusing to dispatch him from Hiring Hall – Board determined Application did not contain factual assertions which, if proven, would establish that Union had applied any membership rule in discriminatory manner or that Union sought, through prohibited means, to compel or induce him to refrain from being member or officer of Union or to deprive him of his rights under the *Act* - Essence of Applicant’s position was that he denied that Union had drug and alcohol policy and he disagreed with Union’s decision to suspend his membership by refusing to dispatch him from the Hiring Hall pending satisfactory clearance

certificate – That disagreement did not constitute violation of section 19 of the *Act* – Not role of Board to sit as general court of appeal from union decisions regarding their members – Application dismissed – Substantive Order.

## **Under *The Employment Standards Code***

### **6300154 Manitoba Ltd. - and - D.P.**

Case No. 70/15/ESC

July 30, 2015

**WAGES - Validity of Managerial Employment Contract** - Employee appealed Order dismissing his complaint for overtime, vacation wages and general holiday wages arguing that after being removed from Kitchen Manager position, employment contract which stipulated annual salary for up to 50 hours of work per week was no longer valid - Board determined Employee was not performing management functions primarily after his demotion and accordingly, hours of work provisions of *The Employment Standards Code* were applicable - Although Employee's duties and responsibilities were diminished when he was demoted to working supervisor, he continued to be remunerated in accordance with employment contract - Having accepted demotion by continuing to work in Production Kitchen for more than six months, he cannot be in a more favourable position with respect to terms of contract - Salary of \$40,000 per annum for work up to 50 hours per week remained in effect after demotion and until his resignation - Employee entitled to overtime payment for any hours worked in excess of 50 in a week, not entitled to any additional monies for general holiday and entitled to vacation pay at four percent on all regular wages earned - Appeal allowed - Substantive Order.

### **Gaffer's Inc. - and - L.X.**

Case No. 141/15/ESC

December 21, 2015

**WAGES - Employment Agreement** - Director dismissed Employee's complaint alleging that wages, overtime wages, general holiday wages, vacation wages and wages in lieu of notice were not paid upon termination of employment because evidence showed all wages had been paid in full - Employee appealed Order – Board determined notwithstanding absence of express written agreement between parties, Board satisfied parties entered into oral agreement when Employee was hired, whereby Employer agreed to pay Employee annual salary plus gratuities, and salary inclusive of all hours worked up to 10 hours per day and 50 hours in a week - Fact that Employee never directly asked be paid overtime wages while he was working was factor which Board considered in assessing positions of parties - Based on records available of wages owing, Board satisfied that Employee had been fully compensated and was not entitled to receive any further wages - Appeal dismissed – Substantive Order.

### **The Army, Navy and Air Force Veterans in Canada, Assiniboia Unit No. 283 Inc. - and - L.N.**

Case No. 145/15/ESC

November 3, 2015

**NOTICE - Resignation** - Employer appealed Order to pay Employee four weeks' wages in lieu of notice submitting it did not terminate Employee's employment but rather Employee resigned at disciplinary meeting – Board determined that while Employee did turn in her keys to Employer's establishment, that action was at request of Employer; no evidence Employee voluntarily removed any of her personal belongings, other than her coat and purse, from her office; and, Employee immediately characterized situation to others as termination rather than resignation - Employee may have misunderstood Employer's intent at meeting, but Employer at no time attempted to correct her understanding of situation - Board not satisfied Employer established Employee resigned – Appeal dismissed – Substantive Order.

## **Under *The Workplace Safety and Health Act***

### **Gauthier Chrysler Dodge Jeep - and - K.N. - and - Director, Workplace Safety & Health**

Case No. 91/15/WSH

June 25, 2015

**DISCRIMINATORY ACTION COMPLAINT - *Prima facie*** - Board determined Appellant Employee failed to establish she conducted herself in manner described in subsection 42(1) of *The Workplace Safety and Health Act* and failed to establish a nexus between Employer's decision to terminate employment of Appellant and any conduct of Appellant as described in subsection 42(1) of the Act - *Prima facie* case not established - Appeal dismissed - Substantive Order.

### **Winnipeg Regional Health Authority - and - Manitoba Nurses' Union - and - M.N.G.**

Case No. 107/15/WSH

November 20, 2015

**PRACTICE AND PROCEDURE - Right to Appeal** - Employee filed an Appeal respecting Right to Refuse Report in which Workplace Safety and Health Officer concluded the work in question was safe to perform and worker was not entitled to refuse the work – In her appeal, Employee sought remedy of policy change for her co-workers - Board determined Employee was on inactive status on unpaid leave of absence and would remain so until date of her resignation - Her active employment had effectively concluded - Subsection 39(1) of *Workplace Safety and Health Act* provided that person “directly affected by an order or decision of the director under section 37 may appeal it to the Board” - Employee who had no current involvement with worksite in question was not “directly affected” within meaning of subsection 39(1) of the Act - Board concluded issuing ruling on Appeal was not necessary to advance or protect health and safety of other workers because if similar situations arose those cases would to be addressed on their own facts - Board satisfied that Release signed by Employee was valid, binding and enforceable and ousted jurisdiction of Board to consider merits of Appeal - Based upon provisions of valid, binding and enforceable Settlement Agreement matter was moot and there was no longer live controversy to be resolved – Appeal dismissed – Substantive Order.

### **Krueger Enterprises Ltd. - and - Director, Workplace Safety & Health**

Case No. 133/15/WSH

November 20, 2015

**APPEAL - Exemption from Regulation Re Guardrail Systems** - Employer filed appeal respecting Stop Work Order and Improvement Order issued as result of employees on roof not wearing safety harnesses as required by sections 14.3 and 14.6 of the *Workplace Safety and Health Regulation* - Manitoba Shingling Contractors Association (MSCA) obtained exemption from certain sections of *Regulation* with respect to roof inspections and emergency repairs lasting no longer than 20 minutes - Board determined, pursuant to authority granted by section 21 of the *Workplace Safety and Health Act*, Director issued exemption order to MSCA for period of three years - As a result, members of MSCA were exempted from sections 14.3 and 14.6 of the *Regulation* when performing “roof inspections and emergency repairs” - Workers on roof without harnesses were engaged in “roof inspection”, a task that required less than five minutes to perform and work was done during period exemption order was in effect – Board determined workers were performing work contemplated by valid exemption granted by Director and Stop Work Order and Improvement Order should not have been imposed – Orders set aside – Substantive Order.

**Sunrise Poultry Processors Ltd. carrying on business as Dunn-Rite Food Products - and - Director, Workplace Safety & Health**

Case No. 130/15/WSH

February 10, 2016

**ADMINISTRATIVE PENALTY - TIMELINESS** - By subsection 53.1(7) of *The Workplace Safety and Health Act*, person required to pay administrative penalty may appeal matter by sending Board notice of appeal within 14 days after being served with notice - Board determined Appellant did not file appeal in accordance with time limit simply by mailing its appeal on 14<sup>th</sup> day – For appeal to be timely, Board had to receive appeal in its offices on or before the 14<sup>th</sup> day - Appeal not received at Board's office until 17 days after being served Notice - Time limit in subsection 53.1(7) mandatory and failure to follow this provision goes to jurisdiction of Board to entertain any appeal – Appeal dismissed – Substantive Order.

**ADMINISTRATIVE PENALTY - PRACTICE AND PROCEDURE - Service** - Parties disagree on date Notice of Administrative Penalty served - Notice mailed to Appellant's Winnipeg office attention to company president whose office was located in British Columbia did not change fact that Notice was served on June 15, 2015 rather than June 17<sup>th</sup> when company official redirected Notice to president – Also, confirmation of service indicating that mail signed for by individual who was not employee of Appellant did not persuade Board that Appellant was not served with Notice on June 15, 2015 – Substantive Order.

## **SUMMARIES OF SIGNIFICANT COURT DECISIONS**

During the fiscal year, no court decisions were issued related to labour board cases. Three matters were discontinued by the applicants.

## **STATISTICAL TABLES**

**TABLE 1**  
**STATISTICS RELATING TO THE ADMINISTRATION OF *THE LABOUR RELATIONS ACT***  
**(April 1, 2015 – March 31, 2016)**

Type of Application	Cases Carried Over	Cases Filed	Total	Disposition of Cases					Number of Cases Disposed	Number of Cases Pending
				Granted	Dismissed	Withdrawn	Did Not Proceed	Declined to Take Action		
Certification	3	27	30	25	3	1	0	0	29	1
Revocation	0	6	6	2	3	0	0	0	5	1
Amended Certificate <sup>1</sup>	2	38	40	32	0	0	0	1	33	7
Unfair Labour Practice	11	21	32	1	4	15	0	0	20	12
Board Ruling	4	24	28	21	1	2	0	0	24	4
Review and Reconsideration	1	11	12	1	9	0	0	0	10	2
Successor Rights	9	1	10	6	4	0	0	0	10	0
Termination of Bargaining Rights	1	2	3	2	1	0	0	0	3	0
Changes in Work Conditions (Sec.10(1)) <sup>2</sup>	0	0	0	0	0	0	0	0	0	0
Changes in Work Conditions (Sec. 10(3)) <sup>3</sup>	0	6	6	5	0	0	0	0	5	1
Duty of Fair Representation (Sec. 20)	17	21	38	1	18	10	0	1	30	8
Speed Up Decision (Sec. 125(4))	0	0	0	0	0	0	0	0	0	0
Access Agreement (Sec. 22)	0	0	0	0	0	0	0	0	0	0
Ratification Vote Complaint (Sec. 69, 70)	0	0	0	0	0	0	0	0	0	0
Minister Requires Ratification Vote (Sec. 72.1)	0	0	0	0	0	0	0	0	0	0
Religious Objector (Sec. 76(3))	0	3	3	2	0	0	0	0	2	1
First Collective Agreement (Sec. 87(1))	0	3	3	1	0	2	0	0	3	0
Subsequent agreement (Sec. 87.1(1))	0	1	1	0	0	1	0	0	1	0
Appoint Arbitrator (Sec. 115(5))	0	7	7	1	0	5	0	0	6	1
Extension of Time Limit (Sec. 130(10.1)) <sup>4</sup>	0	0	0	0	0	0	0	0	0	0
Disclosure of Union Information (Sec. 132.1)	0	0	0	0	0	0	0	0	0	0
Referral for Expedited Arbitration <sup>5</sup>	5	68	73	-	-	-	-	-	65	8
<b>Totals</b>	<b>53</b>	<b>239</b>	<b>292</b>	<b>100</b>	<b>43</b>	<b>37</b>	<b>0</b>	<b>2</b>	<b>246</b>	<b>46</b>

1. One of the 38 cases filed was an Amended Certificate/Board Ruling (AC/BR), but for statistical purposes has been reported as an Amended Certificate. Three of the granted cases were also filed as AC/BR, but have been reported as Amended Certificates.
2. When an Application for Certification is filed with the Board, changes in conditions of employment cannot be made without the Board's consent until the Application is disposed of.
3. Within the first 90 days following certification of a union as a bargaining agent, strikes and lockouts are prohibited, and changes in conditions of employment cannot be made without the consent of the bargaining agent. Applications under this section are for an extension of this period of up to 90 days.
4. Extension of Time Limit for expedited decisions. As of October 28, 2015, extension requests were submitted as a letter to the expedited arbitration file rather than a separate application.
5. See Table 3 for a breakdown of statistics relating to applications for referral for expedited arbitration.

**TABLE 2**  
**STATISTICS RELATING TO THE ADMINISTRATION OF *THE LABOUR RELATIONS ACT* RESPECTING REPRESENTATION VOTES**  
**(April 1, 2015 – March 31, 2016)**

TYPE OF APPLICATION INVOLVING VOTE	Number of Votes Conducted	Number of Employees Affected by Votes	Applications GRANTED After Vote	Applications DISMISSED After Vote	Applications Withdrawn After Vote	Outcome Pending	Vote Conducted but not counted
Certification	5	210	2	3	0	0	0
Revocation	4	87	3	1	0	0	0
Intermingling	3	36	1	2	0	0	0
Termination of Bargaining Rights	2	36	2	0	0	0	0

**TABLE 3**  
**STATISTICS RELATING TO THE ADMINISTRATION OF *THE LABOUR RELATIONS ACT* RESPECTING REFERRALS FOR EXPEDITED ARBITRATION**  
**(April 1, 2015 – March 31, 2016)**

Cases Carried Over	Referrals Filed	TOTAL	Cases Where Mediator Appointed	Disposition of Cases						
				Settled by Mediation	Settled by Parties	Arbitration Award Issued	Declined to Take Action	Withdrawn	Cases Disposed	Cases Pending
5	68	73	20 <sup>1</sup>	20	11	2	2	30	65	8

1. - The count of mediators appointed relates to the files opened during the fiscal year. In cases where two or more applications were consolidated, the mediation is counted as one appointment.

**TABLE 4**  
**STATISTICS RELATING TO THE ADMINISTRATION OF *THE EMPLOYMENT STANDARDS CODE***  
**(April 1, 2015 – March 31, 2016)**

Cases Carried Over	Number of Applications Filed	TOTAL	Orders Issued by the Board	Applications Withdrawn	Not Proceeded with by Applicant	Number of Cases Disposed of	Number of Cases Pending
10	24	34	18	8	0	26	8

**TABLE 5**  
**STATISTICS RELATING TO THE ADMINISTRATION OF *THE WORKPLACE SAFETY AND HEALTH ACT***  
**(April 1, 2015 – March 31, 2016)**

Cases Carried Over	Number of Applications Filed	TOTAL	Decisions/Orders Issued by the Board	Applications Withdrawn	Number of Cases Disposed	Number of Cases Pending
2	19	21	6	8	14	7

**TABLE 6**  
**STATISTICS RELATING TO THE ADMINISTRATION OF *THE ESSENTIAL SERVICES ACT***  
**(April 1, 2015 – March 31, 2016)**

Cases Carried Over	Number of Applications Filed	TOTAL	Orders Issued by the Board	Applications Withdrawn	Not Proceeded with by Applicant	Number of Cases Disposed of	Number of Cases Pending
0	0	0	0	0	0	0	0

**TABLE 7**  
**STATISTICS RELATING TO THE ADMINISTRATION OF *THE ELECTIONS ACT***  
**(April 1, 2015 – March 31, 2016)**

Cases Carried Over	Number of Applications Filed	TOTAL	Orders Issued by the Board	Applications Withdrawn	Not Proceeded with by Applicant	Number of Cases Disposed of	Number of Cases Pending
0	3	3	0	3	0	3	0

**TABLE 8**  
**STATISTICS RELATING TO BOARD HEARINGS**  
**(April 1, 2015 – March 31, 2016)**

During the reporting period, 108 matters were scheduled to be heard involving 113 applications. <sup>1</sup>	Scheduled Hearing Dates	Hearing Dates that Proceeded	Percentage of Proceeded to Scheduled
Number of hearing dates <sup>2</sup>	247	76	31%

- 1 A "matter" may deal with one or more applications. For example, a matter could involve one application for unfair labour practice or a matter could involve an unfair labour practice and a related application for certification.
- 2 A hearing can be either a full or half day.

**TABLE 9**  
**FIRST AGREEMENT LEGISLATION REVIEW OF CASES FILED**  
**(April 1, 2015 – March 31, 2016)**

Union	Employer	Date of Application	Outcome of Application	Status as at March 31
<b><u>Pending from Previous Reporting Period</u></b>				
Nil				
<b><u>New Applications from Current Reporting Period</u></b>				
Canadian Union of Public Employees, Local 5176	Epic Opportunities	April 1, 2015	Withdrawn	
United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union	Winnipeg Dodge Chrysler	June 9, 2015	Board imposed first collective agreement	Expiry August 3, 2016
Canadian Union of Public Employees, Local 5260	City of Steinbach	December 3, 2015	Withdrawn	

**TABLE 10**  
**SUBSEQUENT AGREEMENT LEGISLATION REVIEW OF CASES FILED**  
**(April 1, 2015 – March 31, 2016)**

Union	Employer	Date of Application	Outcome of Application	Status as at March 31
<b><u>Pending from Previous Reporting Period</u></b>				
Nil				
<b><u>New Applications from Current Reporting Period</u></b>				
Manitoba Nurses Union	Nisichawayasihk Personal Care Home	July 15, 2015	Withdrawn	