

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

I am pleased to submit the Annual Report outlining the activities of the Manitoba Labour Board for the period April 1, 2018 to March 31, 2019.

During this reporting period, the Manitoba Labour Board successfully fulfilled its mandate and met its objectives. In pursuit of those objectives, the Board has continued to develop and implement initiatives designed to modernize its practices and procedures. One of the most significant and successful of these recent projects involved changes to the administrative process followed in applications for certification. These initiatives streamlined procedures and simplified the information provided to employers. As a result of this project, fewer staff hours are expended, accuracy has been improved, certification votes are conducted more quickly, and employers have a better understanding of the Board's requirements. Building upon this success, the Board has continued to explore innovations to enhance the services that it provides.

With responsibilities under fourteen different statutes, the Board continues to hear a substantial number of cases each year. The most significant cases are summarized in this report. However, the Board increasingly relies upon mediation in order to assist parties to resolve their issues. Under the leadership of the Board's Registrar Ruth Liwiski, the Board's experienced staff work with parties to resolve outstanding issues without the necessity of having formal hearings. During this reporting period, over 80% of cases referred by the Board to mediation resulted in settlement. That is a significant achievement which contributes greatly to the Board achieving its mandate. These remarkable results would not be possible without the hard work and dedication of the Board's staff.

I would like to express my gratitude to all of 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 soumettre le rapport annuel faisant état des activités de la Commission du travail du Manitoba du 1<sup>er</sup> avril 2018 au 31 mars 2019.

Au cours de cette période de déclaration, la Commission a respecté son mandat et a rempli ses objectifs. Pour atteindre ces objectifs, la Commission a continué d'élaborer et de mettre en œuvre des initiatives conçues pour moderniser ses pratiques et ses procédures. Un des projets récents les plus marquants et fructueux consistait à apporter des modifications au processus administratif lié aux demandes d'accréditation. L'initiative a eu pour effet de simplifier les procédures et les renseignements fournis aux employeurs. Ce projet a permis de réduire le nombre d'heures travaillées par le personnel, d'améliorer l'exactitude, de procéder plus rapidement aux votes se rapportant aux accréditations et de permettre aux employeurs de mieux comprendre les exigences de la Commission. Forte de ce succès, la Commission a continué d'examiner les innovations permettant d'améliorer les services qu'elle assure.

En assumant les responsabilités que lui confèrent quatorze lois différentes, la Commission continue d'entendre un nombre substantiel de cas chaque année. Les cas les plus importants sont résumés dans le présent rapport. Cependant, la Commission a recours de plus en plus souvent à la médiation pour aider les parties à résoudre leurs différends. Sous la direction de la registraire Ruth Liwiski, le personnel expérimenté de la Commission travaille avec les parties pour résoudre les questions en suspens sans nécessairement passer par des audiences officielles. Pendant la période de déclaration du présent rapport, plus de 80 % des cas renvoyés par la Commission à la médiation ont abouti à un règlement. Cela constitue une réalisation importante qui contribue grandement à l'accomplissement du mandat de la Commission. Ces résultats remarquables ont été rendus possibles grâce au travail acharné et au dévouement du personnel de la Commission.

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

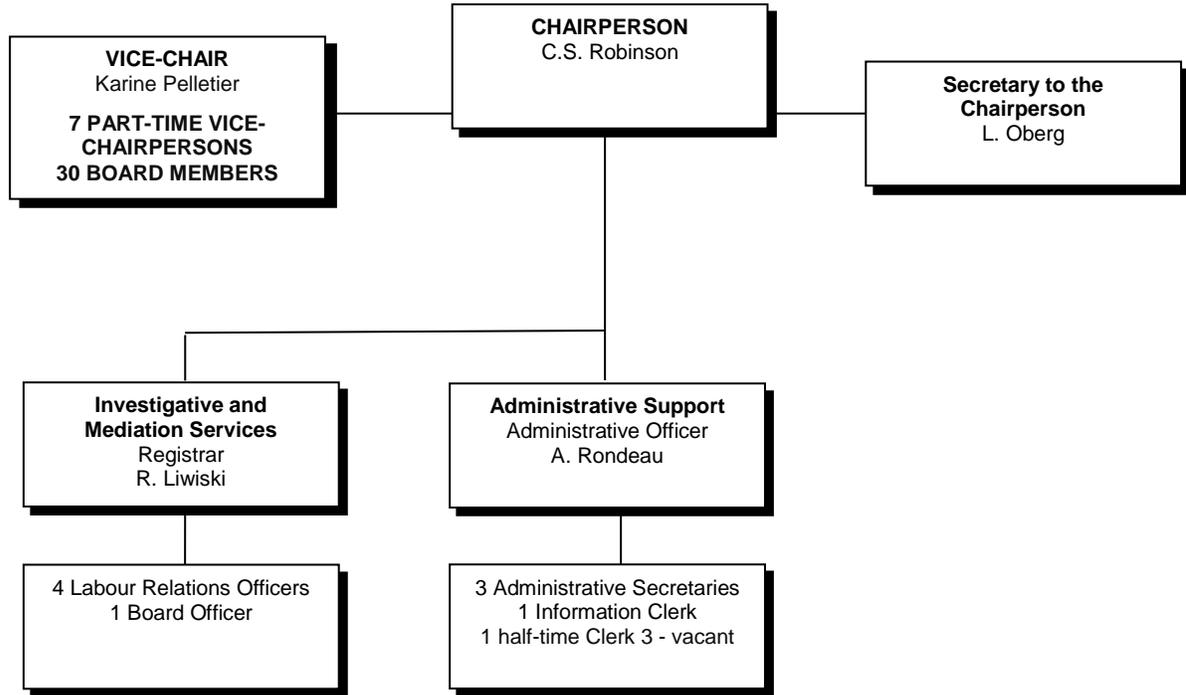
Colin S. Robinson  
Président

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**Manitoba Labour Board  
Organization Chart  
April 1, 2017-March 31, 2018**



# 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."

### Values and Mission

As an independent and autonomous specialist tribunal, the Board's mission is to support the fair and equitable application of the labour and employment statutes under which it has jurisdiction. The values that guide the Board activities include impartiality, efficiency, timeliness and consistency. Through its activities, the Board aims to enhance the public's understanding of the statutory rights and responsibilities in the legislation. The Board is dedicated to providing mediation to parties in an effort to help them resolve their differences where possible, while providing fair and impartial adjudication when necessary.

### Objectives

- 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;
- 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* and *The Employment Standards Code and The Workplace Safety & Health Act*. 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*  
*The Construction Industry Wages Act*  
*The Elections Act*  
*The Essential Services Act (Government and Child and Family Services)*  
*The Essential Services Act (Health Care)*  
*The Pay Equity Act*

*The Public Interest Disclosure (Whistleblower Protection) Act*  
*The Public Schools Act*  
*The Remembrance Day Act*  
*The Victims' Bill of Rights*  
*The Worker Recruitment and Protection Act*

***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 appeals 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*.

***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 18 of the *Act*. An employer may apply to the Board to request an exemption from the requirement to grant a leave under section 18 of the *Act*, if the leave would be detrimental to the employer's operations. The Chairperson and the Chief Electoral Officer jointly agree upon and appoint an adjudicator to hear and decide the matter.

***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***

Amendments to the *Act* became effective on December 1, 2018. An employee or former employee who alleges that a reprisal has been taken against them, may make a written complaint to the Ombudsman (Auditor General) under section 27.1 of the *Act*. The Board deals with appeals under the legislation as new complaints and not as a review of the investigation, decision or recommendations of the Ombudsman or Auditor General respecting the alleged reprisal. If the Board determines that a reprisal has been taken against the complainant, it may make an order pursuant to section 28(3) of the *Act*.

***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 has jurisdiction to hear appeals when a person affected by a director's order wishes to appeal an order of the director under these provisions. The Board hears the appeals of orders 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 MLT Aikins 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.

### **Dennis Harrison**

Appointed on a casual part-time basis in 2018, Dennis is a graduate of Red River College with a Diploma in Business Administration. He retired in June of 2017 following 32 years of employment with the Province of Manitoba in the labour department: a board officer with the Manitoba Labour Board, conciliation officer with Conciliation and Mediation Services and the executive director of Conciliation and Mediation Services.

### **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.

### **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 for the Law Society Admission and Education Hearing Panel. She sits on the board for the Plug In Institute and acts as President for Les Enfants Précieux Inc. Before joining the Board, Karine worked both as in-house legal counsel and in private practice in the areas of administrative law and labour and employment.

**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.

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

Appointed in 2000, Jim Baker has served on several not for profit boards and government agencies during and following a career spanning partnership in a regional chartered accountancy firm; and most recently as president of the Manitoba Hotel Association. He was co-chair of the Athletes Villages committee for the 1999 Pan Am games and has been on the mission staff at the Canada and Western Canada Games. Mr. Baker is also a past director of the Winnipeg Convention Centre. He has lectured at Red River College on industrial relations and human resource Management and been a sessional lecturer in Accounting at the University of Manitoba. Mr. Baker is currently is the chair of the Minister's Advisory Council on Accessibility and past chair of the Friends of Elmwood Cemetery.

**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.

**Paul Challoner (appointed January 1, 2019)**

Appointed in 2019, he is an employer representative for the Manitoba Labour Board. Appointed in 2016, he is an appeal commissioner with WCB Manitoba (representing employers). He currently sits on the board of directors (Finance Committee) for the Health Science Center Foundation since 2013. Previous experience includes an appointment as a director/chair of the Finance Committee for WCB Manitoba from 2005-2016, appeal commissioner for WCB Manitoba from 1996-2004, member of the board of directors for Deer Lodge Hospital Foundation from 2010-2017. His business background comes from being the regional general manager and on the board of directors (shareholder) with Ecol Electric from 1975-2014. Ecol Electric has 56 Canadian branches, 12 South American branches, and 1000 employees. His Education comes from a Bachelor of Arts degree from The University of Winnipeg in 1975 and CSC (Canadian Security Course) diploma received 1986.

**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 owner of Integre Human Resources Consulting and the former director, Total Rewards, Health and Wellness for Manitoba Liquor & Lotteries. She is a graduate of the University of Manitoba with a Bachelor of Education degree and is a Fellow, Chartered Professional in Human Resources (FCPHR). 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, is a past chair of the Board of Directors of CAA Manitoba and is currently chair of the Manitoba Advisory Committee of CAA Club Group.

### **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 past vice-president of the Winnipeg Jazz Orchestra.

### **Chris W. Lorenc, B.A., LL.B. (term expired December 31, 2018)**

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, immediate past 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.

**Jason Peterson** (appointed April 18, 2018)

Appointed in 2018, Jason Peterson is the labour relations lead for Manitoba Hydro's major capital projects and managing director of the Hydro Projects Management Association, which represents all unionized contractors performing work for Manitoba Hydro under the Burntwood Nelson River Agreement. He was the past co-chair of the Wuskwatim project safety and health committee and provides in-line advice to both the Keeyask and Keewatinohk project safety committees and Manitoba Hydro's construction safety teams. Mr. Peterson sits as a board member of the Construction Labour Relations Association of Manitoba, BuildForce Canada, is a member of the Manitoba Employers Council, and has held various management leadership roles since 1990.

**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.

**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** (term expired December 31, 2018)

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 Human Resources, MCI Coach I NFI Parts I Frank Fair.

**Andrea Thomson** (appointed January 1, 2019)

Appointed in 2019, she is a director of human resources and holds a Bachelor of Business Administration from Memorial University of Newfoundland. Ms. Thomson has been working in human resources for over eleven years and has extensive experience in labour/management relations, including collective bargaining, negotiations, strategic planning, employment policy, health and safety and employment training. She has experience working in construction, manufacturing and non-profit industries and is a member of Client Advisory Council with Manitoba Blue Cross.

**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** (term expired December 31, 2018)

Appointed in 2007, Lea Baturin was employed as a national representative with the Communications, Energy and Paperworkers Union (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 and the MFL Women's Committee. Ms. Baturin retired from her position with the union in 2014.

### **Beatrice Bruske** (term expired December 31, 2018)

Appointed in 2007, Beatrice Bruske has been employed since 1993 as a Union representative/negotiator with the United Food and Commercial Workers Local No. 832. (UFCW Local No. 832). In that time she has worked as a servicing representative enforcing collective agreements, investigating incidents and processing grievances in the retail, security, health care and non-profit sectors. From 2005 to 2011, Ms. Bruske worked as a full time negotiator negotiating collective agreements in the food production, security, warehousing, health care, retail and non-profit sectors. In November of 2011, she was elected as Secretary Treasurer for UFCW Local No. 832. In this capacity she is responsible for the finances of the local and is directly involved in the day to day administration and management of the staff of the local. In addition, Ms. Bruske continues to negotiate collective agreements and serves as a trustee on a number of jointly trustee health and welfare benefit and pension plans. In May of 2018, she was appointed to the UFCW National Council Executive board. She is a graduate of the University of Manitoba with an Arts degree in the Labour Studies program.

### **George Bouchard** (appointed January 1, 2019)

Appointed in 2019, he has been employed as a national servicing representative with the Canadian Union of Public Employees (CUPE) since 2010. Coming from the airline division of CUPE, he has the opportunity to service locals in all 5 of the Union's sectors, primarily focusing on the negotiations, arbitrations and general grievance handling. He was previously a member of the social services appeal board of Manitoba.

### **Bill Comstock** (term expired December 31, 2018)

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.

**Greg Flemming** (appointed January 1, 2019)

Appointed in 2019, he is the executive director of the University of Manitoba Faculty Association, where he is active in grievance handling, collective bargaining, and the governance of the association. He received his Doctor of Philosophy from York University in 2015, where he was a tutor and member of the Canadian Union of Public Employees.

**Dee Gillies**

Appointed in 2019, Dee is an experienced organizer, negotiator, and employee representative in grievances and arbitrations. She served as the Executive Director of the Winnipeg Association of Public Service Officers (WAPSO) until her retirement in 2018. Prior to that she was an International Representative for the International Federation of Professional and Technical Engineers (IFTPTE), and Board Member of the Telecommunications Employees Association of Manitoba (TEAM).

**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.

**Bruce Harris** (appointed January 1, 2019)

Appointed in 2019, Bruce Harris has been the business manager and financial secretary treasurer of the International Association of Sheet Metal, Air, Rail, and Transportation Workers (SMART) Local 511 Manitoba since 2005. Previously, Mr. Harris was the business representative and recording secretary of Local 511 and a red seal sheet metal journeyman since 1981. He currently serves as a trustee on health & welfare and pension boards, as trustee/vice-president on several affiliated councils, and is a member of the Manitoba Apprenticeship and Certification Board. He is lead negotiator for the five divisions of Local 511, actively involved in labour/management issues-relations-arbitrations, organizing, and activities concerning the needs of his 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.

**Janet Kehler** (appointed April 18, 2018)

Appointed in 2018, Janet Kehler has both Bachelors of Arts and Social Work degrees and began her career in child protection, going on to serve as manager of Emergency Services for the Province of Manitoba. In 2006, she took on the role as staff representative with the Manitoba Government and General Employees' Union (MGEU), where she was responsible for negotiating collective agreements, bringing grievances forward, and other member services. She went on to manage a team of staff representatives before assuming her current position as the MGEU director of member services. As director, Ms. Kehler oversees various components of the service continuum, including several teams of staff representatives, the MGEU's resource centre, and its legal department.

**Marc Lafond**

Appointed in 2016, Marc Lafond has been employed as business manager and financial secretary of the International Union of Operating Engineers of Manitoba, Local 987 (IOUE) since 2011. Previous to his employment with the IOUE, 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.

**Diane Mark** (appointed April 18, 2018)

Appointed in 2018, Diane Mark has worked for the Manitoba Government and General Employees' Union since 1989. In 2015 she moved into her current role as manager, member services. Her previous position held was a staff representative. Ms. Mark has been involved in servicing, facilitating, grievance handling, collective bargaining as well as participated in arbitration hearings. Ms. Mark has represented members in every sector; civil service, crown corporations, healthcare and labour relations. In addition, Ms. Mark trains and mentors staff. In 1994, Ms. Mark graduated from the University of Manitoba Labour Program.

**Maureen Morrison** (term expired December 31, 2018)

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. Ms. Morrison retired from CUPE in June 2014.

**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 22 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.

**Tony Sproule** (appointed April 18, 2018)

Appointed in 2018, Tony Sproule is currently employed as an international representative with the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union (USW) since 2006. As the area supervisor of staff representatives, he deals primarily with grievance arbitration matters, collective bargaining, organizing, member education and facilitating of the USW constitution within the Province of Manitoba.

**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.

## **OPERATIONAL OVERVIEW**

### **Adjudication**

During 2018/19, the Board was comprised of a full-time chairperson, a vice-chairperson, seven 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 Legal Services Branch of Manitoba Justice.

### **Investigative and Mediation Services**

Investigative and mediation services is comprised of the registrar and five labour board officers. The registrar, who 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 registrar, in conjunction with the chairperson and board members, is 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 legislation. They are appointed to act as Board representatives to attempt to resolve issues between parties, reducing the need for hearings. They act as returning officers in Board conducted representation votes, attend hearings and assist the registrar in the processing of various applications. They assist 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.

### **Administrative Services**

Administrative services is comprised of the administrative officer and administrative support staff. Reporting to the chairperson, 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.

## 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.

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)
- *The Labour Relations Act* and other statutes under which the Board has jurisdiction\*
- Regulations\* (including *The Manitoba Labour Board Rules of Procedure*)
- Library
- Publications\* (list and links for convenient access, including previous annual reports)

## E-mail (General Enquiry)

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

## E-mail (Case Related)

[MLBRegistrar@gov.mb.ca](mailto:MLBRegistrar@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 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 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 2018/19 (\$000s)</b>	<b>FTE's</b>	<b>Estimate 2018/19 \$(000s)</b>	<b>Variance Over/(Under) \$(000s)</b>	<b>Expl. No.</b>
Total Salaries	1,316	14.50	1,451	(135)	
Total Other Expenditures	168		200	(32)	
<b>Total Expenditures</b>	<b>1,484</b>	<b>14.50</b>	<b>1,651</b>	<b>(167)</b>	

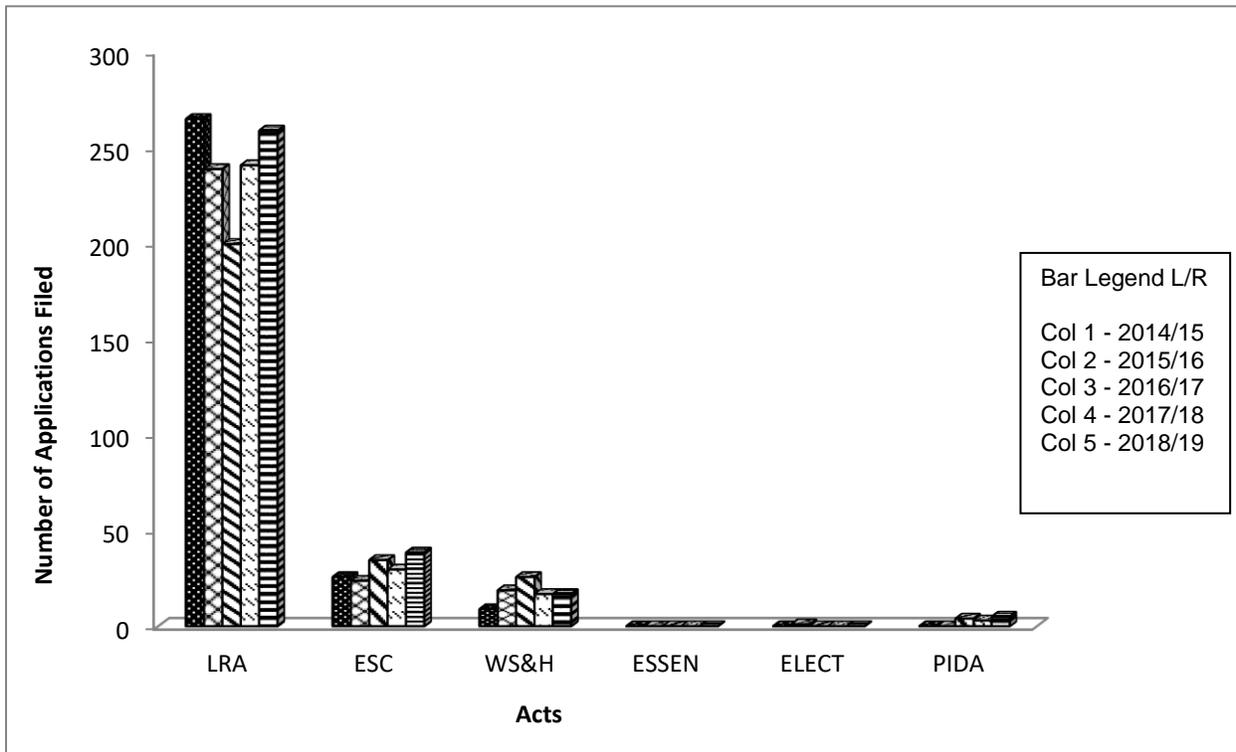
# PERFORMANCE REPORTING

## Summary of Performance

The Manitoba Labour Board adjudicated disputes referred to it under various provincial statutes. The Board conducted formal hearings and encouraged the settlement of disputes through mediation. During the 2018/19 fiscal year, issues before the Board were resolved or narrowed in over 80 percent of cases where a board representative conducted mediation.

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**



### \*Types of Applications

LRA	Labour Relations Act
ESC	Employment Standards Code
WS&H	Workplace Safety and Health Act
ESSEN	Essential Services Act
ELECT	Elections Act
PIDA	Public Interest Disclosure Act

Detailed statistical tables can be found beginning on page 38 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

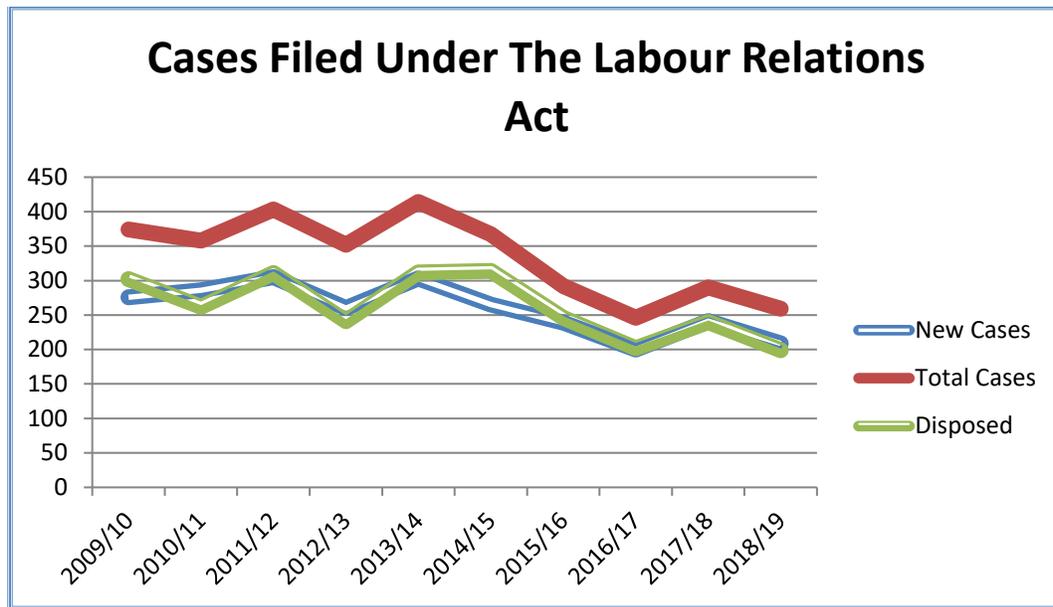
April 1 - March 31

Indicator	Actual 2017/18	Actual 2018/19
Percentage of Cases disposed of	78.5%	75%
Number of hearing dates scheduled	301	289
Percentage of hearings that proceeded	18%	25%
Number of votes conducted	44	29
Median processing time (calendar days):		
<i>The Labour Relations Act</i>	41	51
* <i>The Workplace Safety and Health Act</i>	142	135
<i>The Essential Services Act</i>	N/A	N/A
<i>The Elections Act</i>	N/A	N/A
<i>The Employment Standards Code</i>	116	118
* <i>The Public Interest Disclosure (Whistleblower Protection) Act</i>	129	160

"N/A" - No applications processed in reporting period

\*Note: Given the small number of application/appeals dealt with under these statutes, the median processing time may not necessarily be indicative of the typical time the Board has worked on these cases.

## Ten Year Trends

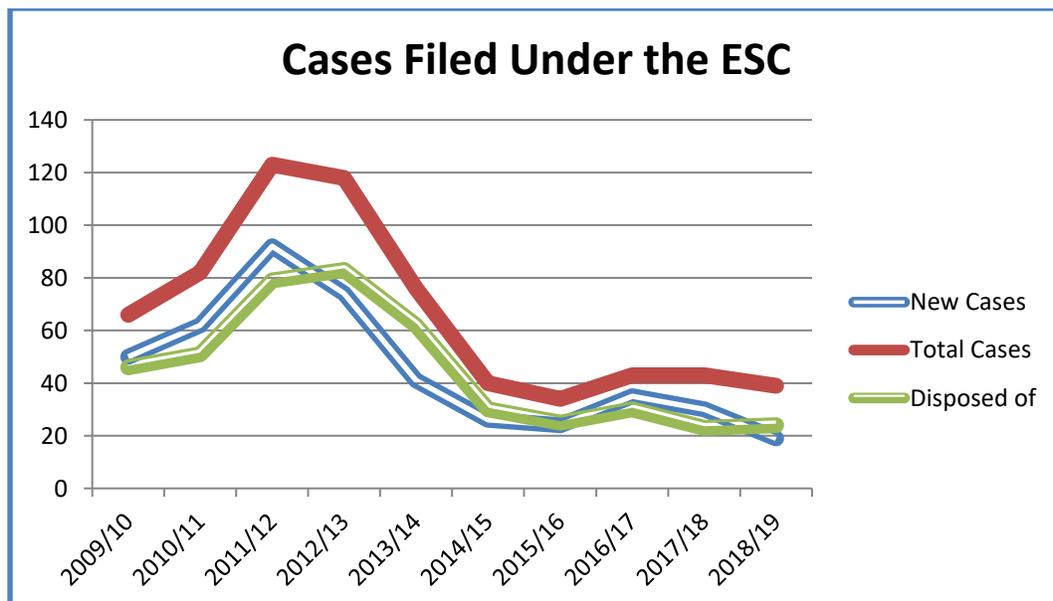


2018/2019 Totals	
New Cases:	<b>209</b>
Total Cases:	<b>259</b>
Disposed:	<b>199</b>

The ten-year trend in the number of new cases filed under *The Labour Relations Act* ranges from the minimum of 200 applications filed in 2016/17 to a maximum of 305 filed in 2011/12. The average number of applications filed each year is 258 files.

On average, the Board disposed of 263 cases per year which were filed under *The Labour Relations Act*.

	Min	Max	Avg
Cases Filed	200	305	258
Total Cases	246	414	335
Disposed	199	314	263

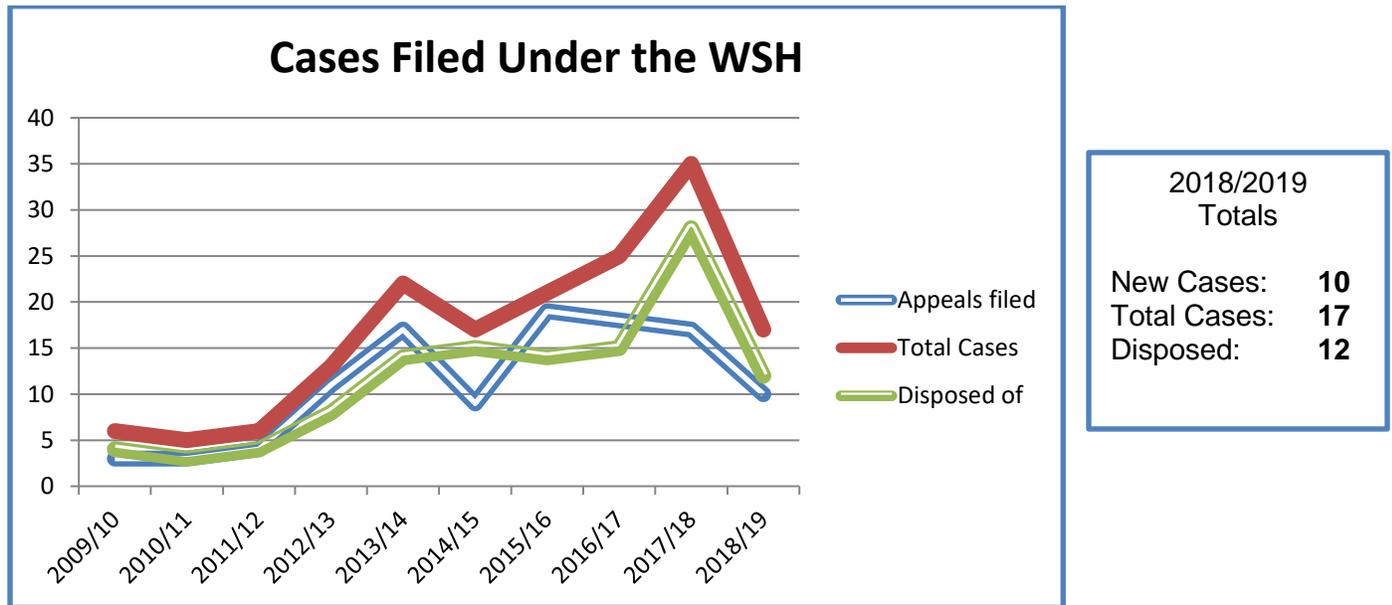


2018/2019 Totals	
New Cases:	<b>19</b>
Total Cases:	<b>39</b>
Disposed:	<b>24</b>

The ten-year trend in the number of new cases filed under *The Employment Standards Code* ranges from the minimum of 19 applications filed in 2018/19 to a maximum of 92 filed in 2011/12. The average number of applications filed each year is 45 files.

On average, the Board disposed of 45 cases per year which were filed under *The Employment Standards Code*.

	Min	Max	Avg
New Cases	19	92	45
Total Cases	34	123	66
Disposed of	23	83	45



The ten-year trend in the number of new cases filed under *The Workplace Safety and Health Act* ranges from the minimum of 3 application filed in 2009/10 to a maximum of 19 filed in 2015/16. The average number of applications filed each year is 11 files.

On average, the Board disposed of 12 cases per year which were filed under *The Workplace Safety and Health Act*.

	Min	Max	Avg
New Cases	3	19	11
Total Cases	5	35	17
Disposed of	3	28	12

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

- 320 cases before the Board (pending from previous period plus new applications);
- 240 (75 percent) of the cases before the Board were disposed of/closed;
- 119 applications scheduled for hearing;
- 72 hearing dates proceeded;
- Board conducted 29 votes; and
- Issued 55 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;
- Maintain 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.

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

- 320 cas ont été portés devant la Commission (demandes en instance depuis l'exercice précédent et nouvelles demandes).
- 75 % des cas portés devant la Commission (240) ont été réglés ou classés.
- Une date d'audience a été fixée pour 119 demandes.
- La Commission a tenu 72 audiences.
- La Commission a tenu 29 votes.
- La Commission a rendu 55 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.

# SUMMARIES OF SIGNIFICANT BOARD DECISIONS

## Under *The Labour Relations Act*

### St. Vital Electric Ltd. -and- International Brotherhood of Electrical Workers, Local 2085

Case No. 228/17/LRA

April 19, 2018

**APPLICATION FOR CERTIFICATION – EXCLUSIONS** - Applicant applied for bargaining unit excluding individual because he was not a journeyman electrician – Individual is an M-Class Electrician – Board concluded that to exclude M-Class Electrician who works side-by-side with journeyman electricians would create undue fragmentation – Board determined that M-Class Electrician should be included in the Unit - Board ordered ballots counted.

**APPLICATION FOR CERTIFICATION – EXCLUSIONS** - Union claimed an employee should be excluded because he was the son of the owners of the Company – Evidence was that he was a casual employee, attending school – Board not satisfied that evidence demonstrated a perceived conflict of interest by the mere fact of his inclusion – Board determined that he should be in the bargaining unit – Board ordered ballots counted.

**APPLICATION FOR CERTIFICATION – INTERIM ORDER** – Employer objected to Union’s description of bargaining unit on basis that not appropriate for collective bargaining – Board concludes that bargaining unit proposed by Union not appropriate for purposes of collective bargaining, and accepts the unit proposed by Employer as a result of exclusion issues and on the basis that the Employer does not employ some classifications sought to be included by Union - Board ordered ballots counted.

### University of Manitoba -and- University of Manitoba Faculty Association -and- K.H.

Case No. 15/18/LRA

May 11, 2018

**DUTY OF FAIR REPRESENTATION - DISCRIMINATION** - Applicant claims Union failed to represent him in his respect of a matter relating to the University Pension Plan - Applicant claims that pension plan discriminates against employees who work past age of 65 years - Board determined that essence of complaint for which he was seeking assistance did not relate to a right under the collective agreement - Application dismissed – Substantive Order.

**DUTY OF FAIR REPRESENTATION – FAILURE TO ACT – UNDUE DELAY** - The issue first arose in 2015, and Applicant had many discussions with Union representatives over course of the years - He was advised by Union to file a grievance, which he did not do - told Union that he would file a complaint in 2017, but did not actually file until 2018 – Board determined that Applicant delayed in filing Application for many months, if not years. His explanation for the delay did not satisfy Board that the delay should be condoned - Application dismissed – Substantive Order.

**DUTY OF FAIR REPRESENTATION – FAILURE TO BARGAIN** - Applicant claims that Union’s failure to negotiate new language in collective agreement breached s. 20 – Board concluded that s. 20 does not impose obligations on union except respective representation rights under collective agreement - Does not apply to collective bargaining – Board determined that none of the allegations of the Applicant amount to arbitrary, discriminatory or bad faith conduct by the Respondent contrary to section 20 of the *Act* - Application dismissed – Substantive Order.

### Shared Health Inc. -and- MGEU -and- Group of employees of Westman Lab

Case No. 86/18/LRA

June 8, 2018

**UNFAIR LABOUR PRACTICE – COLLECTIVE BARGAINING** - Applicants seeking remedy regarding events surrounding bargaining of collective agreement and ratification – Applicants aware of the facts underlying complaint more than 6 months before filing Application - Application untimely - Application dismissed – Substantive Order.

**UNFAIR LABOUR PRACTICE – PRIMA FACIE CASE** - Applicants seeking remedy regarding events surrounding bargaining of collective agreement and ratification – Board concluded that duty of fair representation restricted to rights under collective agreement, and does not apply to collective bargaining – Application dismissed – Substantive Order.

**Kenroc Building Materials -and- IUOE, Local 987**

Case No. 109/18/LRA

July 16, 2018

**UNFAIR LABOUR PRACTICE – INTERIM ORDER** – Employer objected to the Union’s description of the bargaining unit on the basis that it was not appropriate for bargaining – Applicant seeking exclusion of Yard Foreman, Dispatcher and Summer Student – Employer argued that exclusion of Dispatcher would lead to serious labour relations concerns – Board satisfied that unit applied for by Union appropriate for bargaining - Board orders ballots counted. Substantive Order.

**City of Winnipeg -and- CUPE, Local 500 -and- T.D.**

Case No. 69/18/LRA

January 11, 2019

**DUTY OF FAIR REPRESENTATION – STANDARD OF PROOF** – Applicant claims that he received poor service from Union and that Union did not sufficiently investigate issues he experienced in the workplace – Union argued that it had investigated and had invited the Applicant to discuss matters with both union representatives and counsel – Discrepancies in evidence were found to favour the Union, as Applicant had a difficult time recounting timeline of events, and matters that were discussed in meetings – Union witnesses had notes which assisted in showing sequence of events - Application dismissed – Substantive Order.

**DUTY OF FAIR REPRESENTATION – TIMELINESS** - Application, as relates to any issue which predates termination of Applicant’s employment was dismissed on basis that it was untimely – Application dismissed – Substantive Order.

**DUTY OF FAIR REPRESENTATION – DISABILITY** – Employee contended that Union failed to provide him with proper representation given his disability - Process followed by Union was reasonable in the circumstances and in keeping with principles outlined in previous jurisprudence of the Board - Application dismissed – Substantive Order.

**DUTY OF FAIR REPRESENTATION – PRIMA FACIE CASE** – Board determined that Applicant made assertions in his Application that were not borne out through his evidence - Applicant failed to demonstrate, on the facts presented, that Union’s consideration of his grievance was inappropriate, and failed to take into account his medical concerns – Application dismissed – Substantive Order.

**The Pas Family Foods -and- UFCW Local No. 832**

Case No. 93/18/LRA

January 22, 2019

**DECLARATIONS - SUCCESSORSHIP** - Union filed Application for Declaration requesting following remedies: declarations that the business was sold, that new owner is successor Employer, that new Employer is bound by terms and conditions of Collective Agreement between Union and former Employer and that new Employer is a party to any proceedings pending on date business was sold under current Collective Agreement and/or *The Labour Relations Act*, as well as any other remedy that is equitable under the circumstances - Employer denied that there had been any sale of business as suggested - Board concluded former Employer is carrying on substantially same business as predecessor which operated out of same location; concluded there had been a sale of the business, that new Employer is successor and therefore acquired rights, privileges and obligations under the *Act* with regard to the bargaining unit of previous Employer and is bound by Collective Agreement between previous Employer and Union – Written Reasons.

**City of Steinbach -and- CUPE, Local 5260 -and- Q.C.**

Case No. 218/18/LRA

January 24, 2019

**DECERTIFICATION – INTERIM ORDER – TIMELINESS OF APPLICATION** – Union alleged Application was untimely as filed “during the first six months after the date on which the collective agreement became effective” – Employer referred to the Collective Agreement and *Act* in support of position that application was timely – Board determined that the “effective” date is gleaned from the collective agreement – Labour relations objective for parties to be entitled to determine, on the fact of the Agreement and the *Act*, the appropriate statutory period – Board concluded that clause was clear and unambiguous, and in absence of evidence to the contrary – retroactivity was found to apply to the term of the Agreement – Board ordered ballots counted.

**Crown Utilities Ltd. and International Union of Operating Engineers, Local 987**

Case No. 165/18/LRA, 166/18/LRA, 168/18/LRA

January 25, 2019

**CERTIFICATION – UNFAIR LABOUR PRACTICES, DISCRETIONARY CERTIFICATION** - Union filed application for certification and 2 applications alleging unfair labour practices - Requested discretionary certification as remedy - Employer admitted unfair labour practices including a captive audience meeting, an interrogation of an employee and inappropriate correspondence, but asserted that their apologies were sufficient and a representation vote could determine the true wishes of the unit. Board determined employer guilty of unfair labour practices, apologies were insincere, insufficient and not timely – Discretionary certification ordered.

**Winnipeg Regional Health Authority (Deer Lodge Centre Site) -and- Public Service Alliance of Canada**

Case No. 242/18/LRA

March 11, 2019

**UNFAIR LABOUR PRACTICE, DELAY, FREEZE, ALLEGED THREAT** - Union alleges employer violated freeze provisions in 2017 and 2018 contrary to Section 10(4) and made a threat contrary to section 17(b)(ii) of *Labour Relations Act* - Employer asserted that the complaints were in part untimely and are made in improper forum - should be heard by an arbitrator under collective agreement.

Board found that 2017 complaints were unduly delayed - Employer’s 2018 communication did not constitute a threat as contemplated by section 17(b)(ii) - Notice to bargain is not deemed to be notice of termination of a collective agreement - Collective agreement had not terminated so any dispute can be adequately decided by an arbitrator - Complaint dismissed pursuant to Section 140(7). Substantive Order.

***Under The Employment Standards Code***

**7100469 Manitoba Ltd., t/a Blind Tiger Coffee Co. -and- T.S., D.N., N.N. and O.S.C., being Directors of 7100469 Manitoba Ltd., t/a Blind Tiger Coffee Co. -and- T.S.**

Case No. 1/18/ESC, 2/18/ESC, 3/18/ESC, 4/18/ESC

April 30, 2018

**EVIDENCE – Admissibility** – N.N. objected to use of surreptitious tape recordings of telephone conversations between N.N. and T.S. because he was unaware that he was being recorded and he did not have opportunity to hear recordings to ensure they were complete and accurate – Board ruled tapes inadmissible.

**EVIDENCE – Admissibility** – N.N. sought to introduce unsworn written statements from individuals who were not in attendance at hearing – Board ruled that statements were inadmissible as written statements were unsworn and none of individuals were present at hearing to provide testimony.

**EMPLOYEE** – T.S. claimed to be employee of the Respondents - Upon termination of employment, T.S. filed claim seeking wages, overtime wages, vacation wages, general holiday wages and wages in lieu of

notice - Employment Standards Officer dismissed claim because employer employee relationship had not been established – T.S. appealed decision - T.S. was Lessee of premises of the Respondent in the first instance, which then turned into potential buyer of restaurant – No evidence of terms of engagement or employment – No evidence of hours of work or any other agreement – Board guided by definition of “employee” and “employer” - Board was not persuaded that T.S. was an employee under *The Employment Standards Code* – Appeal dismissed – Substantive Order.

**Capitol Steel Corporation -and- B. E.**

Case No. 66/18/ESC

August 30, 2018

**NOTICE – Discharge – Just Cause – Employer appealed Order to pay six weeks’ wages in lieu of notice on basis it had just cause to terminate Employee’s employment in accordance with Section 62(1)(h) of *The Employment Standards Code* –Employer relied on doctrine of culminating incident – Board satisfied that, given position held by Employee, his conduct was worthy of a disciplinary response – Board not satisfied that incident constituted a culminating incident – Employer had not sufficiently demonstrated through its evidence that it had progressively disciplined the Employee – Employer did not satisfy Board that Employee was terminated for just cause – Employee entitled to six weeks’ wages in lieu of notice – Appeal dismissed – Reasons for Decision.**

**Prairie Rose School Division -and- S.A.**

Case No. 268/17/ESC

October 10, 2018

**WAGES – Overtime – Exclusion – Employee appealed Dismissal Order alleging that overtime wages and wages in lieu of notice were not paid upon termination of employment - Employee held position of Secretary-Treasurer which was second highest ranked position of Employer and reported directly to Superintendent and to Board of Trustees - Employee was an Accountant and was registered as a “regular member” of *The Chartered Professional Accountants Act of Manitoba (CPAAM)* – Employer argued that Employee was not entitled to overtime on basis of his professional designation, as Employee fell within the exception of section 5 of *The Employment Standards Regulation*, in which it noted that overtime does not apply to a professional employee - Employee denied that he was deemed a “professional” under the *Code*, on basis that *CPAAM* did not “solely” apply to him – Board is satisfied that Employee was not entitled to receive overtime wages as he was qualified to practise and was practising or employed as a professional accountant under *The Chartered Professional Accountants Act of Manitoba* - Appeal dismissed – Reasons for decision.**

**WAGES – Overtime – Managerial Exemption – Employer argued that Employee fell within managerial exemption of section 2(4) of the *Code*, and not entitled to overtime – Board satisfied Employee held a senior position as Secretary to Board of Trustees and Treasurer to Prairie Rose School Division (PRSD) – Employee was responsible for administration and financial oversight of PRSD, which included reviewing and signing off of any financial and legal documents – He was involved in collective bargaining on behalf of PRSD – Employee managed, supervised and evaluated staff and made recommendations on hiring and firing – Employee authorized overtime, but did not submit any overtime hours for himself – Employee attended confidential personnel meetings – Board satisfied that Employee performed management functions primarily and fell within managerial exemption in section 2(4)(a) and was exempted from overtime under this *Code* – Appeal dismissed – Reasons for decision.**

**NOTICE – Discharge – Just Cause – Employer argued that Employee had been terminated for just cause as he failed to adhere to objective performance standards and failed to reasonably deliver on key aspects of duties of his position in a timely manner – Employee was offered the opportunity to discuss concerns and to consult with and get an understanding of his role from other Secretary-Treasurers – Employee was advised of his unsatisfactory performance on two specific occasions – He was advised of duties that were required of him in his role, with clear objectives outlined in a letter – Employee acknowledged to missing deadlines and failing to complete work, but failed to provide any reasonable explanation - Board concluded that Employer had sufficiently demonstrated that termination of employment was a proportional response and was warranted in the circumstances – Employee is not entitled to receive wages in lieu of notice – Appeal dismissed – Reasons for decision.**

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

### **Manitoba Metis Federation -and- U.G.**

Case No. 239/17/WSH

August 24, 2018

**WORKPLACE SAFETY AND HEALTH – DISCRIMINATORY ACTION** – Workplace Safety and Health Officer issued four improvement orders to Employer for taking discriminatory actions against a worker, which was subsequently overturned by the Director, Workplace Safety and Health, who concluded that there was no discriminatory action - Employee appealed to the Board – Board did not find sufficient nexus between the termination of the Employee and her complaints of bullying and harassment – Employee had not established *prima facie* case - Appeal dismissed – Substantive Order.

**WORKPLACE SAFETY AND HEALTH – DISCRIMINATORY ACTION** – Employer argued that, if Employee met *prima facie* case, it had satisfied its onus – Board did not agree – Board found that manner in which Employee terminated was hasty and questionable, but not as a result of the Employee raising concerns under workplace safety and health - Appeal dismissed – Substantive Order.

### **Babbu Homes Ltd. -and- Director, Workplace Safety and Health**

Case No. 158/18/WSH

December 4, 2018

**WORKPLACE SAFETY AND HEALTH** – Appeal of an Administrative Penalty – Employer received administrative penalty following third incident of failing to use guardrails – Employer did not appeal improvement order – Timeline for appealing expired once employer received administrative penalty – Employer argued that he had complied with the improvement order and had not been warned that a penalty would be imposed – Board determined that there was a reasonable basis for deciding to impose an administrative penalty in accordance with s. 53.1(1)(a)(ii) - Appeal dismissed - Substantive Order.

### **Brandon Bus Line -and- U.L.H**

Case No. 276/17/WSH

May 3, 2018

**DISCRIMINATORY ACTION** – Appeal by Employer of Director’s decision dismissing discriminatory action complaint filed by Employee – Employee claimed that he was terminated because he raised safety concerns about the seats in vehicles operated by the Employer – Employer claimed that he was terminated because he refused to operate some of the vehicles, which was in violation with a term and condition of his employment – Board satisfied that Employee established that he had met the first component of a *prima facie* case - Board also found sufficient plausible, or causal connection between the safety concerns raised by Appellant and the termination of his employment – Reverse onus - Employer discharged its onus, on a balance of probabilities, and demonstrated that its actions were not motivated by an anti-health or anti-safety animus – Appeal dismissed – Written reasons.

### **Medox Health Services Inc. operating as Drake Medox Health Services -and- Director, Workplace Safety and Health and Winnipeg Regional Health Authority and A.N.**

Case No. 39/17/WSH and 113/17/WSH

December 7, 2018

**DISCRIMINATORY ACTION, EMPLOYER FOR PURPOSE OF THE ACT, ADVERSE INFERENCE, PRIMA FACIE CASE** - Two discriminatory action complaints filed - First upheld by officer, overturned by Director following appeal that WRHA was also an employer – Second dismissed by officer, referred to the Board by Director.

Board determined that WRHA was an employer for the purpose of *Workplace Safety and Health Act* – Appellant established *prima facie* case of discriminatory action. Board drew an adverse inference from the failure of the WRHA to call certain witnesses – WRHA failed to discharge onus that it had not committed discriminatory action. Appeal upheld.

**Marymount Inc. -and- U.C.**

Case No. 155/18/WSH

February 6, 2019

**DISCRIMINATORY ACTION** – Appeal of Employer of Director’s decision dismissing the discriminatory action complaint filed by Appellant – Appellant was casual Youth Care Practitioner – she previously held other positions but at the time, she was working in Boys’ Crisis Stabilization Unit – Appellant’s supervisor went to HR to obtain approval for a 0.1 EFT, which Employer thought was too small, and offered 0.3 EFT as backfill for employee on LTD – Appellant agreed to work on understanding that she would have flexibility around working hours – Employee got into an argument with co-worker about a switched shift, which escalated to other employees and social media interactions – Employer advised Employee that some co-workers were circulating personal information about the Appellant in workplace – Appellant told Employer that she felt unsupported by HR – Employer sent letter to Appellant giving her 4 weeks’ notice of end of term position, as individual on LTD had advised that she would not be returning – A 64-hours position was posted and Appellant applied – Before end of term, Appellant asked to pick up shifts as casual employee, and was advised that “could stay on as a casual at the casual rate of pay”, but that previously scheduled shifts would change – Appellant advised that she was no longer an employee – Appellant alleged discriminatory action in termination– Reverse Onus became effective once Employee had proved *prima facie* case - Board accepted that Employee met *prima facie* case in that the Employer had engaged in discriminatory actions by removing her from all casual lists – Employer failed to discharge onus that the removal of Appellant from all casual shifts was not influenced by Appellant’s ongoing complaints –Board did not see reinstatement as appropriate - Monetary award representing maximum casual hourly rate of pay as set out in posting for twenty-six weeks, assuming twenty hours per week – Appeal allowed.

***Under The Public Interest Disclosure Act***

**Stradbrook Residential Service -and- L.C.**

Case No. 17/18/PIDA

September 28, 2018

**THE PUBLIC INTEREST DISCLOSURE (WHISTLEBLOWER PROTECTION) ACT EMPLOYEE-REPRISALS-** Complainant alleged reprisal occurred from Employer following her good faith disclosure of wrongdoing to Employer’s board of directors - Complainant submits that Employer engaged in acts of reprisal against her by attempting to have other employees assume her duties, by restricting her hours, refusing her request to meet with Employer’s board, and Employer issuing an ROE deeming that she quit her employment - Based on Employer’s previous knowledge of the disclosed financial irregularities, the original terms of the Complainant’s employment, legitimate financial constraints of Employer, assurance made regarding the Complaint’s employment and her subsequent actions, the Board held that the actions of Employer did not constitute a reprisal and were not contrary to section 27 of the *PIDA* – Application dismissed – Substantive Order.

**Manitoba Public Insurance -and- L. I.**

Case No. 150/18/PIDA

February 25, 2019

**THE PUBLIC INTEREST DISCLOSURE (WHISTLEBLOWER PROTECTION) ACT** – Complainant claims she was terminated as she made a public interest disclosure – Board determined that a preliminary hearing would ensue to determine if Complaint had made a disclosure under the *Act* – Complainant failed to establish a *prima facie* case in that the Complaint does not contain information that would satisfy the Board that she made a disclosure, as that term is defined in *PIDA* – Application dismissed – Substantive Order.



**STATISTICAL TABLES**

**TABLE 1**  
**STATISTICS RELATING TO THE ADMINISTRATION OF THE LABOUR RELATIONS ACT**  
**(April 1, 2018 – March 31, 2019)**

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	2	29	31	17	5	4	3	0	29	2
Revocation	1	4	5	3	1	1	0	0	5	0
Amended Certificate	12	12	24	20	0	2	0	0	22	2
Unfair Labour Practice	8	38	46	2	8	21	0	0	31	15
Board Ruling	3	3	6	2	0	2	0	0	4	2
Review and Reconsideration	2	9	11	0	6	1	0	0	7	4
Successor Rights	0	3	3	1	0	0	0	0	1	2
Termination of Bargaining Rights	0	4	4	2	0	1	0	0	3	1
Changes in Work Conditions (Sec.10(1)) <sup>1</sup>	0	0	0	0	0	0	0	0	0	0
Changes in Work Conditions (Sec. 10(3)) <sup>2</sup>	0	6	6	6	0	0	0	0	6	0
Duty of Fair Representation (Sec. 20)	13	30	43	0	19	8	1	0	28	15
Speed Up Decision (Sec. 125(4))	0	0	0	0	0	0	0	0	0	0
Access Agreement (Sec. 22)	0	2	2	0	0	2	0	0	2	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	5	5	5	0	0	0	0	5	0
First Collective Agreement (Sec. 87(1))	1	5	6	3	0	1	0	1	5	1
Subsequent agreement (Sec. 87.1(1))	0	0	0	0	0	0	0	0	0	0
Appoint Arbitrator (Sec. 115(5))	0	2	2	0	0	2	0	0	2	0
Extension of Time Limit (Sec. 130(10.1))	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>3</sup>	8	57	65	-	-	-	-	-	49	16
<b>Totals</b>	<b>50</b>	<b>209</b>	<b>259</b>	<b>61</b>	<b>39</b>	<b>45</b>	<b>4</b>	<b>1</b>	<b>199</b>	<b>60</b>

1. 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.
2. 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.
3. 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, 2018 – March 31, 2019)**

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	24	562	12	5	5	2	6
Revocation	2	53	2	0	0	0	0
Intermingling	0	0	0	0	0	0	0
Termination of Bargaining Rights	3	62	2	1	0	0	0

**TABLE 3**  
**STATISTICS RELATING TO THE ADMINISTRATION OF *THE LABOUR RELATIONS ACT* RESPECTING REFERRALS FOR EXPEDITED ARBITRATION**  
**(April 1, 2018 – March 31, 2019)**

Cases Carried Over	Referrals Filed	TOTAL	Cases Where Mediator Appointed	Disposition of Cases						Cases Disposed	Cases Pending
				Settled by Mediation	Settled by Parties	Arbitration Award Issued	Declined to Take Action	Withdrawn			
8	57	65	18 <sup>1</sup>	11	11	5	1	21	49	16	

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, 2018 – March 31, 2019)**

Cases Carried Over	Number of Appeals Filed	TOTAL	Orders Issued by the Board	Appeals Withdrawn	Number of Appeals Disposed of	Number of Cases Pending
20	19	39	13	11	24	15

**TABLE 5**  
**STATISTICS RELATING TO THE ADMINISTRATION OF *THE WORKPLACE SAFETY AND HEALTH ACT***  
**(April 1, 2018 – March 31, 2019)**

Cases Carried Over	Number of Appeals Filed	TOTAL	Decisions/Orders Issued by the Board	Appeals Withdrawn	Number of Cases Disposed	Number of Cases Pending
7	10	17	6	6	12	5

**TABLE 6**  
**STATISTICS RELATING TO THE ADMINISTRATION OF *THE ESSENTIAL SERVICES ACT***  
**(April 1, 2018 – March 31, 2019)**

Cases Carried Over	Number of Applications Filed	TOTAL	Orders Issued by the Board	Applications Withdrawn	Number of Cases Disposed of	Number of Cases Pending
0	0	0	0	0	0	0

**TABLE 7**  
**STATISTICS RELATING TO THE ADMINISTRATION OF *THE ELECTIONS ACT***  
**(April 1, 2018 – March 31, 2019)**

Cases Carried Over	Number of Applications Filed	TOTAL	Orders Issued by the Board	Applications Withdrawn	Number of Cases Disposed of	Number of Cases Pending
0	0	0	0	0	0	0

**TABLE 8**  
**STATISTICS RELATING TO THE ADMINISTRATION OF *THE PUBLIC INTEREST DISCLOSURE (WHISTLEBLOWER PROTECTION) ACT***  
**(April 1, 2018 – March 31, 2019)**

Cases Carried Over	Number of Applications Filed	TOTAL	Orders Issued by the Board	Applications Withdrawn	Number of Cases Disposed of	Number of Cases Pending
3	2	5	4	1	5	0

**TABLE 9**  
**STATISTICS RELATING TO BOARD HEARINGS**  
**(April 1, 2018 – March 31, 2019)**

During the reporting period, 119 matters were scheduled to be heard. <sup>1</sup>	Scheduled Hearing Dates	Hearing Dates that Proceeded	Percentage of Proceeded to Scheduled
Number of hearing dates <sup>2</sup>	289	72	25%

- 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 10**  
**FIRST AGREEMENT LEGISLATION REVIEW OF CASES FILED**  
**(April 1, 2018 – March 31, 2019)**

Union	Employer	Date of Application	Outcome of Application	Status as at March 31
<b><u>Pending from Previous Reporting Period</u></b>				
International Union of Operating Engineers, Local 987	Rural Municipality of Victoria Beach	March 28, 2018	Board imposed first collective agreement	Expires May 5, 2019
<b><u>New Applications from Current Reporting Period</u></b>				
Workers United Canada Council	Fairfield Inn and Suites by Marriott Winnipeg	May 25, 2018	Declined To Process	
Workers United Canada Council	Fairfield Inn and Suites by Marriott Winnipeg	May 28, 2018	Board imposed first collective agreement	Expires June 26, 2019
Manitoba Nurses Union	Cross Lake Band of Indians	June 23, 2018	Withdrawn	
International Brotherhood of Electrical Workers, Local 2085	St. Vital Electric	October 5, 2018	Board imposed first collective agreement	Expires December 28, 2019
Canadian Union of Postal Workers	Medical Carriers	February 13, 2019	Pending	

**TABLE 11**  
**SUBSEQUENT AGREEMENT LEGISLATION REVIEW OF CASES FILED**  
**(April 1, 2018 – March 31, 2019)**

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>				
Nil				