



Public Service  
Labour Relations and  
Employment Board

A diverse group of public servants, including a Black woman in the foreground and several others in the background, all smiling and clapping. They are wearing professional attire.

# **Public Service Labour Relations and Employment Board**

## Annual Report

**NOVEMBER 1, 2014 – MARCH 31, 2015**

**Canada** 



# Public Service Labour Relations and Employment Board

November 1, 2014 – March 31, 2015

**Chairperson:** Catherine Ebbs

**Vice-Chairpersons:** Linda Gobeil  
David Paul Olsen  
Margaret Shannon

**Full-time Members:** Merri Beattie  
Stephan J. Bertrand  
Nathalie Daigle  
John G. Jaworski  
Steven B. Katkin  
Michael F. McNamara  
Catharine (Kate) Rogers

## EXECUTIVE OFFICERS<sup>1</sup>

<b>Executive Director and General Counsel:</b>	Sylvie Guilbert <sup>2</sup>
	Virginia Adamson <sup>3</sup> (in acting capacity)
<b>Director, Dispute Resolution Services:</b>	Serge Roy
<b>Director, Registry Operations and Policy:</b>	Susan J. Mailer

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<sup>1</sup> Executive Officers are employees of the ATSSC.

<sup>2</sup> For the period November 1, 2014 to December 28, 2014.

<sup>3</sup> For the period December 29, 2014 to March 31, 2015.

# Message from the Chairperson

I am very happy to present the first annual report of the Public Service Labour Relations and Employment Board (the Board), which began its operations on November 1, 2014. This report covers only five months of fiscal year 2014-2015 and focuses on the Board's mandated activities under the *Public Service Labour Relations Act (PSLRA)* and the *Public Service Employment Act (PSEA)*.

The *Public Service Labour Relations and Employment Board Act (PSLREBA)*, which came into force on November 1, 2014, established the Board, merging the functions of the former Public Service Labour Relations Board (PSLRB) and the Public Service Staffing Tribunal (PSST). As well, as a result of the coming into force of the *Economic Action Plan 2014 Act, No. 1*, all the staff from the PSLRB and the PSST automatically became employees of the newly created Administrative Tribunals Support Service of Canada (ATSSC) on November 1. Specialized employees and some administrative staff who support the work of the Board (e.g., dispute resolution services, legal and registry) also became part of the ATSSC.

The new Board continues to serve approximately 220,000 federal public sector employees, as well as stakeholders of the former PSLRB and the PSST. Matters being dealt with by those organizations continue to be heard by the Board. Its legislative references remain the same and in addition to the *PSLRA* and the *PSEA*, also include the *Parliamentary Employment and Staff Relations Act (PESRA)*, the *Canadian Human Rights Act*, certain provisions of the *Canada Labour Code*, the *Yukon Education Labour Relations Act*, the *Education Staff Relations Act* and the *Yukon Public Service Staff Relations Act*. When further sections of *Economic Action Plan 2013 Act, No. 2* eventually come into force, the Board's mandate under the *PSLRA* will be further expanded.

In October 2014, I accepted the appointment of Chairperson of the new Board having served as Chairperson of the former PSLRB since July 2014. Both the PSLRB and the PSST were well known for their expertise in public sector labour relations and employment law and, over the years, for the exemplary leadership they demonstrated. Each has left a special legacy. I am now tasked with leading the new Board and carrying on that legacy, while helping it make its own mark in the field of labour relations and employment law.



To paraphrase a famous saying, over the past few months, the Board and its members have seized the opportunity that arose with the “urging of a practical beginning” and progressed with the continuation of its work immediately after the November 1, 2014 transition arising from the coming into force of certain provisions of the *Economic Action Plan 2013 Act, No. 2*. On November 1, 2014, a new Board was created, with one chairperson, two vice-chairpersons and nine members. There were no new appointments of part-time members. On November 2, 2014, the Board held its first meeting and passed the regulations it required to carry out its work. The Board held its first Client Consultation Committee meeting in February 2015 and engaged in vital dialogue with key stakeholders. It engaged in a subsequent regulatory review in anticipation of further statutory amendments coming into force. Most importantly, even with the many changes before it, the Board continued to provide its two fundamental services: adjudication and mediation, with the capable support of the ATSSC’s PSLREB secretariat.

It is my sincere hope that the steps that the Board has taken in these past few months will allow it to harness its expertise in public sector labour relations and employment law, while ensuring that the fundamental principles of neutrality, impartiality and independence are maintained as it moves forward with its work. This will in turn provide value to all Canadians through the delivery of effective and efficient mediation and adjudication services that will contribute to harmonious labour relations in the federal public service.

In closing, I wish to express my sincere gratitude to my colleagues at the Board and the ATSSC, and in particular, the ATSSC’s PSLREB secretariat, who have contributed so much during our inaugural months, and who have demonstrated great enthusiasm for protecting and supporting the Board’s important mandate.

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**Catherine Ebbs**  
**Chairperson**  
**Public Service Labour Relations and Employment Board**

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## PART ONE:

# About Us

## Creating the Public Service Labour Relations and Employment Board

The Public Service Labour Relations and Employment Board (the Board) was created on November 1, 2014 as a result of the coming into force of the *Public Service Labour Relations and Employment Board Act (PSLREBA)*, which merged the former Public Service Labour Relations Board (PSLRB) and the Public Service Staffing Tribunal (PSST). The Board deals with matters that were previously dealt with by those tribunals under the *Public Service Labour Relations Act (PSLRA)* and the *Public Service Employment Act (PSEA)* respectively.

## Our Responsibilities

The enactment of the Board created a tribunal with an expanded mandate in the area of federal public sector labour relations and employment matters. The Board is also unique in that it is the only body of its type in Canada that combines adjudication functions, its responsibilities as an impartial third party in the collective bargaining process, and its responsibilities for dealing with complaints related to

appointments, revocation of appointments and lay-off processes.

Specifically, the Board is mandated by the *PSLRA* to administer the collective bargaining and grievance adjudication systems in the federal public service. The *PSLRA* also mandates the Board to determine reprisal complaints under the *Canada Labour Code (CLC)*. Under the *PSEA*, the Board addresses complaints related to internal appointments, revocations of appointments and layoffs in the federal public service. The Board may also interpret the *Canadian Human Rights Act* in relation to *PSLRA* grievances and *PSEA* appointments, along with revocation and layoff complaints. In addition, as a result of transitional provisions under section 396 of the *Budget Implementation Act, 2009* and section 441 of the *Economic Action Plan 2013, No. 2*, the Board is responsible for dealing with existing pay equity complaints for the public service that were, and could be, filed with the Canadian Human Rights Commission. It is also responsible for complaints that may arise in the future under the *Public Sector Equitable Compensation Act (PSECA)*.

The Board is also mandated by the *Parliamentary Employment and Staff Relations Act (PESRA)* to perform the same role for the institutions of

Parliament (the House of Commons, the Senate, the Library of Parliament, the Office of the Conflict of Interest and Ethics Commissioner, and the Office of the Senate Ethics Officer). A separate annual report is issued for the *PESRA* and is available on the Board's website at [http://pslreb-crtefp.gc.ca/index\\_e.asp](http://pslreb-crtefp.gc.ca/index_e.asp).

By resolving labour relations and staffing issues in a neutral, independent and impartial manner, the Board helps contribute to a productive and efficient workplace that ultimately benefits Canadians through the smooth delivery of government programs and services.

As well, under an agreement with the Yukon government, the Board administers the collective bargaining and grievance adjudication systems required by the Yukon *Education Labour Relations Act* and the Yukon *Public Service Labour Relations Act*. When performing those functions, the Board acts as the Yukon Teachers Labour Relations Board and the Yukon Public Service Labour Relations Board, respectively. Separate annual reports are issued for those Acts and are available on the Board's website at [http://pslreb-crtefp.gc.ca/index\\_e.asp](http://pslreb-crtefp.gc.ca/index_e.asp).

The Board's two main services are as follows:

- adjudication – hearing and deciding grievances, labour relations complaints and other labour relations matters, as well as dealing with staffing complaints related to internal appointments, lay-offs, the implementation of corrective measures ordered by the Board and revocations of appointments; and

- mediation – helping parties reach collective agreements, manage their relations under collective agreements, and resolve disputes and complaints without resorting to a hearing.

## Our Clients

The Board serves approximately 220,000 federal public service employees covered under the *PSLRA* and by numerous collective agreements, as well as employers and bargaining agents. The *PSLRA* applies to departments named in Schedule I to the *Financial Administration Act (FAA)*, the other portions of the core public service administration named in Schedule IV and the separate agencies named in Schedule V. The *PSEA* applies to departments named in Schedule I to the *FAA*, organizations, and parts thereof, designated by the Governor in Council as a department for the purposes of the *PSEA*.

The Treasury Board employs about 163,000 public servants in federal departments and agencies. More than 60,000 public service employees work for one of the other employers, which range from large organizations, such as the Canada Revenue Agency, to smaller organizations, such as the National Energy Board. The majority of unionized federal public service employees (60%) are represented by the Public Service Alliance of Canada, 23% by the Professional Institute of the Public Service of Canada, and the remaining by other bargaining agents.

Other Board clients include employees excluded from bargaining units and those who are not represented.

For a list of employers, please refer to Tables I and II on the Board's website at <http://www.pslreb-crtefp.gc.ca>.

## Our People

Under section 25 of the *PSLREBA*, the Chairperson supervises and directs the work of the Board. Full-time Board members administer the *PSLRA* and the complaints process related to internal appointments, revocations of appointments and layoffs in the federal public service under the *PSEA*, and render decisions on matters brought before the Board. Appointed by the Governor in Council for terms of no longer than five years, Board members may be reappointed. Biographies of full-time Board members are available on the Board's website at [http://pslreb-crtefp.gc.ca/index\\_e.asp](http://pslreb-crtefp.gc.ca/index_e.asp).

Under section 10 of the *Administrative Tribunals Support Service of Canada Act (ATSSCA)*, the Chief Administrator of the Administrative Tribunals Support Service of Canada (ATSSC) is responsible for providing support services and facilities to the Board.

Those services fall within three broad areas:

- internal services, including the common functions of information technology, human resources and financial services;
- registry services; and
- specialized services (expert staff).

At the coming into force of the *Economic Action Plan 2014 Act, No. 1*, all staff of the PSLRB and the PSST became employees of the ATSSC. Registry, expert and administrative support staff of the former PSLRB and the PSST became part of the ATSSC's PSLREB secretariat. These employees assist the parties involved in matters before the Board; provide legal advice to the Chairperson and Board members on operational, procedural and substantive issues; file, manage and safeguard the Board's cases; and provide the parties with impartial third-party assistance in resolving disputes.

The ATSSC's PSLREB secretariat is led by the Executive Director and General Counsel, who is responsible for leading and supervising its daily operations and who is directly supported by the ATSSC's PSLREB secretariat staff, who are accountable for establishing priorities, managing the work, and reporting on the performance of their specific units.

On November 2, 2015, the Board held its first meeting and passed several regulations that reflected the change in its statutory reality. In addition, tools and processes were adapted to ensure that they reflected the changes in legislation and communications materials available to the public were also changed. As well, ATSSC staff managed the day-to-day work that was necessary to ensure cases under the *PSLRA* and the *PSEA* continued to be administered, regardless of the legislative changes.

During the reporting period, the new Board was left with three full-time member vacancies and did not have any new part-time members assigned to it.

In March 2015, the ATSSC's PSLREB secretariat organized full-day, change-at-work workshops that were attended by all employees. The sessions were intended to provide employees with tools for dealing with change in the workplace. From January to March 2015, the PSLREB secretariat also worked in collaboration with human resources on focus group discussions related to the changes arising from the *EAP 2014 Act, No. 1*. These steps followed the recommendations arising from focus group discussions with employees of the former PSLRB in September 2014.

## PART TWO:

# The First Five Months

This annual report examines the Board's activities that are related to complaints under the *PSEA*, as well as applications, complaints and grievances under the *PSLRA* for the period from November 1, 2014 to March 31, 2015.

For more information on the work of the former PSLRB and the PSST for the period April 1, 2014 to October 31, 2014, please refer to their annual reports at [http://www.pslrb-crtfp.gc.ca/reports/intro\\_e.asp](http://www.pslrb-crtfp.gc.ca/reports/intro_e.asp) and <http://psst-tdfp.gc.ca/article.asp?id=3486> respectively.

## Activities related to the *PSLRA*

### CASELOAD

As a result of the statutory changes that arose from the creation of the new Board, over 3,800 files before the former PSLRB were transferred to the new organization. During the period of November 1, 2014 to March 31, 2015, the Board received 1,002 new files; 833 were grievances, 29 were complaints and 140 were applications. The Board also closed 712 files during that same period. More information on the caseload carried over from the former PSLRB is available in Appendix 1 of this report.

Part II of the *PSLRA* deals with grievances, which represent the largest portion of the Board's workload. There are three types of grievances: individual, group and policy.

Individual grievances are those that may be referred to adjudication under the paragraphs of subsection 209(1) of the *PSLRA* as follows:

- interpretations or applications with respect to employees of collective agreement or arbitral award provisions;

- disciplinary actions resulting in terminations, demotions, suspensions or financial penalties; and
- demotions or terminations for unsatisfactory performance or any other reason that is not a breach of discipline or misconduct, or deployment without the employee's consent when consent is required and which are only for employees for whom the Treasury Board is the employer.

During the reporting period, the Board received 813 individual grievance referrals. Of those, over 680 files related to interpretations of collective agreements and over 40 files to terminations of employment. The remainder involved other disciplinary matters (such as financial penalties and suspensions without pay) and other non-disciplinary matters, such as deployment without consent.

As well, the Board received 8 new group grievances (i.e., grievances that are filed by several employees in a department or agency who believe their collective agreement has not been administered correctly).

It also received 12 new policy grievances (i.e., grievances that are filed by the bargaining agent or the employer and that must be related to an alleged violation of the collective agreement that affects employees in general).

It is important to note that the Board encourages parties to continue to work toward a settlement throughout the adjudication process, as a solution created by the parties is always preferable. Parties may participate in case settlement discussions with the adjudicator at any time during the process. In addition, there are dispute resolution services available to the parties to help them resolve their grievances. Those services are described in this report.

Finally, when grievances referred to adjudication involve certain issues under the *Canadian Human Rights Act*, adjudicators may determine that monetary relief be awarded. Pending the coming into force of other provisions under Part 17 of the *Economic Action Plan 2013 Act, No. 2*, the Canadian Human Rights Commission (CHRC) must be notified of such grievances and has standing to make submissions to an adjudicator. Between November 1, 2014 and March 31, 2015, 59 such grievance referrals were accompanied by notification to the CHRC.

During the reporting period, there was a high number of applications for extensions of time. Thirty (30) such applications were made either to file a grievance or to refer a grievance to adjudication. In comparison, only 10 of those applications were received in the first 7 months of the fiscal year by the former PSLRB. Of the 30 received by the new Board, 12 were related to requests to extend the time to file a grievance (as part of the departmental process) and 18 were extension requests to refer the grievance to adjudication before the Board.



## COMPLAINTS

Complaints may be filed under Part I of the *PSLRA*, which relates to unfair labour practices. In addition, under Part III of that Act, complaints of reprisal under the *Canada Labour Code (CLC)* may be filed. Finally, a pay equity complaint may be filed under the transitional provisions of the *Budget Implementation Act, 2009*.

Complaints may be filed for unfair labour practices under section 190 of the *PSLRA* for any of the following reasons:

- the failure (by the employer, a bargaining agent or an employee) to observe terms and conditions of employment;
- the failure (by the employer, a bargaining agent or a deputy head) to bargain in good faith;
- the failure (by the employer or an employee organization) to implement provisions of a collective agreement or arbitral award; or
- the commission (by the employer, an employee organization or any person) of an unfair labour practice.

A smaller portion of the Board's overall active caseload involves complaints, yet they consume a substantial amount of its time and resources either because of their complexity, or because they may involve self-represented complainants who may require assistance throughout the process. During the period under review, the Board received 24 such complaints.

Complaints against bargaining agents about failures to fairly represent members comprised 33% of the Board's total complaints.

The Board also received 5 new complaints for reprisals under the *CLC*.

Finally, the Board received 1 new complaint under the pay equity provisions of the transitional provisions of *Budget Implementation Act, 2009*.

## APPLICATIONS UNDER PART I OF THE *PSLRA*

Applications can be submitted under Part I of the *PSLRA*, which focusses on labour relations and collective bargaining. During the first five months of the Board's operations, more than 140 applications were received, which represented almost 11% of all of the cases received.

Of the applications received during the first five months of the Board:

- 105 were requests for a determination of management and confidential positions;
- two were for applications under section 43 of the *PSLRA*, to review and/or amend a previous Board order to review prior decisions of the Board;
- one was an application for certification of the CFIA (Canadian Food Inspection Agency) CFOA (CFIA Financial Officer Association) as the official bargaining agent of all FI group employees working at the CFIA.

## **DISPUTE RESOLUTION SERVICES FOR LABOUR RELATIONS ISSUES**

The Dispute Resolution Services (DRS) - Labour Relations provides various services that relate to the *PSLRA*. These services include assisting the Chairperson to administer the collective bargaining process and providing mediation services in the context of collective bargaining, as well as for grievances and complaints referred to the Board.

Mediators assigned by the PSLREB to mediate cases are impartial third parties who do not have decision-making powers. Rather, they intervene in disputes and help the parties explore the underlying reasons for their conflicts and find mutually acceptable solutions. They may be experienced, in-house professionals, or the Board may appoint external mediators when required.

The ATSSC's PSLREB Secretariat mediation services offer the parties an opportunity to meet in an open and less confrontational environment where they can resolve their disputes and avoid more adversarial processes that could result in additional delays in resolving their issues and in strained relationships.

## **MEDIATION FOR GRIEVANCES AND COMPLAINTS**

The success of parties in resolving their grievances and complaints through mediation was in line with previous years. Specifically, 36 mediation interventions for grievances and complaints were carried out by the DRS – Labour Relations, resulting in the resolution of 42 files referred to adjudication that might otherwise

have proceeded to a hearing. Of those interventions, the parties reached an agreement 89% of the time. The main types of files resolved through mediation in this reporting period related to a variety of disciplinary measures, claims of discrimination, duty to accommodate, termination of employment, and duty of fair representation. The DRS – Labour Relations also conducted 1 preventive mediation intervention, which led to the resolution of the matter.

The DRS – Labour Relations offers interest-based negotiation and mediation training designed for labour relations officers, union representatives, managers and supervisors, as well as those working in related fields. In light of the recent structural changes, the DRS – Labour Relations did not deliver its two-and-a-half-day training session during the reporting period.

## **COLLECTIVE BARGAINING**

When the parties are unable to make progress in their face-to-face negotiations during collective bargaining, the Board's DRS – Labour Relations may provide mediation support. This unit helps the Chairperson to set up and administer arbitration boards or public interest commissions (PICs) as appropriate.

The reporting period coincided with the tail end of the last round of collective bargaining that initially began in early 2011. This explains the very modest level of activity requested of the Board. In fact, the Board received only 1 new request for mediation assistance. The mediation process has been initiated and another session has been scheduled to take place in the next fiscal year.

As previously mentioned, should the parties be unable to resolve their differences during face-to-face negotiations or with the assistance of a mediator, they may refer their matters in dispute to the Board.

In the reporting period, the Board published 1 PIC report for a conciliation request received the previous fiscal year. As well, the Board issued 2 arbitral awards for arbitration requests that were brought forward from previous years.

With the upcoming round of federal public service collective bargaining, the DRS – Labour Relations has seen an increased interest in interest-based bargaining (IBB) training. IBB training sessions are designed according to the specific needs of the parties. They vary in length and scope and they provide negotiation teams with an overview of this alternative style of negotiation, as well as its principles, steps, techniques and tools. The DRS – Labour Relations delivered 4 such training sessions during the reporting period.

## Activities Related to Staffing Complaints under the *PSEA*

For the period from November 1, 2014 to March 31, 2015, the staffing registry received a total of 278 complaints. Table I shows the breakdown of those complaints by type.

**TABLE I BREAKDOWN OF COMPLAINTS BY TYPE**

<b>s.77</b> (appointments)		<b>97.8%</b>	<b>272</b>
<b>s.65</b> (lay-offs)	<b>2</b>	<b>0.7%</b>	
<b>s.74</b> (revocation of appointments)	<b>4</b>	<b>1.4%</b>	
n/a	<b>0</b>	<b>0.0%</b>	
<b>s.83</b> (corrective action)	<b>0</b>	<b>0.0%</b>	

Total Number of Complaints = **278**

From November 1, 2014 to March 31, 2015, the Board closed 214 complaint files. Of those, 184 (85.98%) were closed within 270 days or less from the receipt of the complaint.

## **STAFFING COMPLAINTS REFERRED TO MEDIATION**

During the reporting period, 38 mediations were conducted in which 70 complaint files were processed and 59 were settled. This represents an overall success rate of 84%, with similar rates for mediations conducted by telephone, videoconference or in person. The number of mediations undertaken and files handled this year was higher than for the same period the previous year. The average mediation participant satisfaction rate, which is based on feedback related to the mediation process and the work of the mediator, was 96%. This high satisfaction rate was reported for mediations done in person, by telephone and by videoconference. Training in how to engage in a staffing mediation is also provided to help participants (parties, bargaining agents, human resources representatives and managers) prepare for effective mediation of staffing complaints.

Staffing mediation services also provided presentations and special sessions, both within and outside the public service, to help build an understanding of mediation as a dispute resolution mechanism. Finally, in February 2015, an additional presentation on dispute resolution was offered to the Federal Informal Conflict Management System Network.

## **SETTLEMENT CONFERENCES**

In addition to the mediation of staffing complaints, a settlement conference may be held at the discretion of a PSLREB panel. A settlement conference is a confidential process with the objective of coming to a final resolution with a withdrawal of the complaint. Both mediation and settlement conferences have a high success rate. A settlement conference differs from the mediation of a staffing complaint in that it is chaired by a Board member and tends to be rights-based and evaluative in scope, rather than interest based. It allows the parties to discuss, in caucus, the strengths and weaknesses of their case and reach a settlement that is satisfactory to them. If a settlement is not reached, a different member will preside over a formal hearing of the complaint.

The number of settlement conferences slightly decreased during the reporting period, as several hearings were adjourned due to a lack of resources.

From November 1, 2014 to March 31, 2015, the Board scheduled a total of 5 settlement conferences, 2 were held by teleconference, resulting in either a settlement or withdrawal of 4 of the complaints while the remaining complaint was still scheduled for hearing as of March 31, 2015.

## **DECISIONS ISSUED BY THE BOARD**

The Board issued 30 decisions dealing with labour relations and 4 involving staffing issues. In addition, many interim decisions were issued by letter. Final decisions are normally posted on the Board's website. The letter decisions may also be accessible as a result of the open court principle described in this report.

## Practical Beginnings

### STATUTORY CHANGES AND CONSEQUENTIAL REGULATORY CHANGES

As previously mentioned in this report, during the first five months of its operations, the new Board addressed many changes arising from the implementation of the statutory changes. The Board had to adopt its governing regulations to ensure it was ready to discharge the responsibilities it inherited from the former PSLRB and the PSST.

Also on November 1, 2014, the *Economic Action Plan 2014 Act, No. 1* came into force, centralizing the provision of support services to some administrative tribunals, including the Board, through a single, integrated organization: the ATSSC. As a result, the Board had to become accustomed to a new service delivery model, while striving to maintain the same level of service that the former PSLRB and the PSST previously provided to their stakeholders. As well, the Board created new decision templates and notices for new case files. It also developed its website and other related tools for its clients.

The members of the new Board held their first meeting on November 2, 2014 and passed three regulations, which amended the previous regulations of the former PSLRB and the PSST, in relation to both federal public service and parliamentary staff labour relations and grievances. It also amended regulations for the former PSST for public service staffing complaints.

The new regulations that pertain directly to the activities of the Board in relation to the *PSLRA* and the *PSEA* came into force on November 3, 2014 follow:

1. *The Regulations amending the Public Service Labour Relations Board Regulations, which modify the title of the Public Service Labour Relations Board Regulations to the Public Service Labour Relations Regulations.*
2. *The Regulations amending the Public Service Staffing Tribunal Regulations, which modify the title of the Public Service Staffing Tribunal Regulations to the Public Service Staffing Complaints Regulations.*

The Board recognizes that the Report on Plans and Priorities of the ATSSC will measure its success in relation to the performance measurements identified by tribunals in their respective annual reports. The PSLREB is a new Board, and it will engage in its own development of benchmarks and service standards in the future, drawing on the measures of the legacy tribunals and as they relate to its new mandate.

### CASE MANAGEMENT STRATEGIES

A challenge for the Board is managing its very large and complex caseload, which was an ongoing challenge for the former PSLRB. The PSST did not have the same challenge. The labour relations caseload grew from 1,200 more than a decade ago to over 5,000 by March 31, 2015.

The increase in the number and in the complexity of many of the cases transferred to the Board can be attributed to several factors. These include jurisdictional issues; prolonged adjudication in factually complex matters; the growing number of self-represented individuals; and requirements for managerial and confidential exclusion orders, which must respect tight timeframes.

During the past five months, the Board focused on improving service delivery by implementing more streamlined, responsive and effective adjudication processes through more proactive case management and in-depth case analysis. Its goal is to increase the number of cases it closes each year, while optimizing resources.

In addition, a number of initiatives that were adopted by the legacy tribunals will continue to be used. These initiatives have included convening the Client Consultation Committee, which enables the Board to work closely with its clients to gain insight into their views on how the organization can refine its adjudication processes and practices; and holding pre-hearing conferences (via teleconference, when possible), which generally yield positive results as they enable the parties to resolve preliminary issues upfront and narrow down the issues in dispute. This ultimately contributes to making more efficient use of the parties' time and resources and, in certain cases, eliminates the need for an oral hearing.

In the adjudication process, additional practices were used that the new Board adopted. These include using written submissions when possible for cases in which there is no dispute about the facts of those cases; implementing solutions to reduce last-minute hearing postponement requests; and establishing special task forces for parties with a high volume of cases. On this latter point, of all the new files received during the review period, 436 originated from members of the Union of Canadian Correctional Officers. More than 2,100 open case files for this group remain and they will continue to be treated as a priority.

## **CASE MANAGEMENT SYSTEM**

The Board operates two legacy case management systems from the former PSLRB and the PSST. Those tribunals laid the groundwork for the implementation of their respective new case management systems before the announcement of their merger.

During the reporting period, the Board continued the implementation of the new Labour Relations Information System (LRIS). In addition, the case management system for staffing complaints was further developed and enhanced to simplify complaint processing and provide for efficient and effective case management. Upcoming upgrades for the email function through Outlook will facilitate the forwarding of electronic documents to the parties.



## BOARD MEMBER APPOINTMENTS

With the creation of a new Board, additional appointments of both full- and part-time Board members were necessary. Having a sufficient number of Board members will assist the operations of the Board.

## OPENNESS AND PRIVACY

The open court principle requires that judicial and quasi-judicial proceedings are held in an open forum. This principle is crucial to promoting the rule of law and the administration of justice. It prevents abuse, which can occur when a hearing is held behind closed doors. The identity of the party or witness is generally considered essential to endorsing the public accountability of a specific person and what he or she has to say in those proceedings. As once noted by the Supreme Court of Canada, though there may be embarrassment, covertness and secrecy must be the exceptions. The open court principle is considered integral to the search for truth. The principle of transparency of proceedings also ensures the media's important role as the agent of the public in adjudicative proceedings. Transparency is essential for effectively exercising the right of free expression, and educating the public as to how, in a neutral and fair way, the adjudicative process searches for the truth. This will maintain public confidence in the administration of justice.

The open court principle long predates the *Canadian Charter of Rights and Freedoms* (the Charter) and the Supreme Court of Canada has confirmed the application of the Charter in relation to this principle. Public accountability includes not just the event, but

traditionally who is saying what. The name of the person and what that person has said also addresses the importance of the accuracy of public information. The principle improves the quality of testimony, producing in the witness a disinclination to falsify his or her testimony.

Prior to the legislative change that merged the former PSLRB and the PSST, both tribunals strongly adhered to the open court principle. At its first meeting on November 2, 2015, the new Board endorsed a policy on the open court principle, which is available on its website. It is the position of the Board that the open court principle be considered by each tribunal and decision maker.

As a quasi-judicial tribunal that renders decisions on a broad range of labour relations and employment matters in the federal public service, the Board operates very much like a court. Bound by the constitutionally protected open court principle, it conducts its oral hearings in public, save for exceptional circumstances. As a result, most information filed with the Board becomes part of a public record and is generally available to the public, ensuring transparency, accountability and fairness.

In keeping with the principles of administrative law, the Board is required to issue a written decision when deciding a matter. The decision is to include a summary of the evidence presented, the arguments of the parties, and an articulation of the supporting reasons. The Board's written decisions are made available to the public in many ways. Most are published by specialized private publishers and some can be accessed on the Internet via publicly available databases. In addition, the full texts of decisions

have been posted on the Board website. As a means to balance the open court principle and the privacy concerns of individuals availing themselves of their rights under the *PSLRA* and the *PSEA*, the former PSLRB had voluntarily introduced measures via a web robot exclusion protocol that restricts global search engines from accessing full-text decisions posted on its website and from yielding specific information (e.g., a person's name) contained in decisions. It had also modified its website and administrative letters opening case files to notify individuals who initiate proceedings that its decisions are posted in their entirety on its website. These measures have been maintained by the new Board.

The *Protocol for the Use of Personal Information in Judgments*, approved by the Board and endorsed by the Council of Canadian Administrative Tribunals, reflects the ongoing commitment of Board members to seek a balance between the open court principle and privacy concerns, in accordance with accepted legal principles, and to report in their decisions only that personal information that is relevant and necessary to the determination of the dispute. Also, documents filed as exhibits before a Board member that contain medical, financial or other sensitive information about a person may be sealed by order of a Board member, if appropriate.

For more information on the policy of the Board pertaining to the open court principle and privacy considerations, please visit:

[http://pslreb-crtefp.gc.ca/privacy\\_e.asp](http://pslreb-crtefp.gc.ca/privacy_e.asp).

## JUDICIAL REVIEW

Occasionally, parties may apply for judicial review of a decision rendered by the Board. Decisions of the Board are reviewed by the Federal Court of Appeal. Please refer to Appendix 2 for a summary of applications for judicial review from November 1, 2014 to March 31, 2015, as well as Appendix 3 for the period from April 1, 2010 to October 31, 2014 for applications for judicial review of decisions of the legacy tribunals.

## ORGANIZATIONAL CONTACT INFORMATION

# Labour Relations

For all inquiries, including hearing confirmation, mediation and media, please contact the Board via the information listed here. Our hours of operations are from 8:00 a.m. to 4:00 p.m. (EST) from Monday to Friday.

**Email:** [mail.courrier@pslreb-crtefp.gc.ca](mailto:mail.courrier@pslreb-crtefp.gc.ca)

**Telephone:** 613-990-1800

**Toll Free:** 866-931-3454

**Fax:** 613-990-1849

**Access to Information and Privacy:** 613-990-1757

**Jacob Finkelman Library:**

[library-bibliotheque@pslreb-crtefp.gc.ca](mailto:library-bibliotheque@pslreb-crtefp.gc.ca)

**Address:**

C.D. Howe Building  
240 Sparks St.  
West tower, 6th floor  
Ottawa

**Mailing Address:**

Public Service Labour Relations  
and Employment Board  
P.O. Box 1525, Station B  
Ottawa, Ontario  
Canada  
K1P 5V2

# Staffing Complaints

Please send your comments or complaint-related questions to us through one of the options listed here. Prior to making an inquiry about the complaints process, we encourage you to refer to the [Staffing Complaint Procedural Guide](#).

**Telephone:** 613-949-6516  
1-866-637-4491 (toll-free)

**TTY (teletype):** (866) 389-6901

**Facsimile:** 613-949-6551

**Email:** [Info@pslreb-crtefp.gc.ca](mailto:Info@pslreb-crtefp.gc.ca)

**Mailing Address:**

Public Service Labour Relations  
and Employment Board  
240 Sparks Street  
6th Floor West  
Ottawa, Ontario  
K1A 0A5

# Appendix 1

## TOTAL CASELOAD IN THE LABOUR RELATIONS AREA 2011-2012 to 2014-2015\*

FY	Carried forward from previous years	New			Total New	Closed	Carried forward to next year
		Grievances	Complaints	Applications			
2011/12	3,774	1,736	64	308	2,108	1,368	4,514
2012/13	4,109	1,655	61	310	2,026	1,587	4,548
2013/14	4,547	1,550	60	362	1,972	2,101	4,418
	<b>Nov 1/14 – Mar 31/15</b>	<b>833</b>	<b>29</b>	<b>140</b>	<b>1,002</b>	<b>712</b>	

\* For the period from November 1, 2014 to March 31, 2015.

# Appendix 2

## SYNOPSIS OF APPLICATIONS FOR JUDICIAL REVIEW OF DECISIONS\* NOVEMBER 1, 2014 to MARCH 31, 2015

	Decisions rendered <sup>1</sup>	Number of applications	Applications withdrawn	Applications dismissed	Applications allowed	Applications pending <sup>2</sup>	Appeals of applications pending <sup>3</sup>
<b>YEAR 1</b> (November 1, 2014 to March 31, 2015)	30	6	0	1	0	6	0
<b>TOTAL</b>	<b>30</b>	<b>6</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>6</b>	<b>0</b>

Note: The figures for the last five fiscal years are not final, as not all the judicial review applications filed in those years have made their way through the Court system.

<sup>1</sup> Decisions rendered do not include cases dealt with under the expedited adjudication process and Managerial Exclusion Orders issued by the Board upon consent of the parties. The breakdown of decisions issued is as follows: 20 grievances, 4 complaints under Part I of the *PSLRA*, 1 application for an extension of time, 2 complaints under Part III of the *PSLRA*, 2 complaints under the *PSEA* and 1 decision under the *PESRA*\*.

<sup>2</sup> Applications that have yet to be dealt with by the Federal Court. Does not include appeals pending before the Federal Court of Appeal or the Supreme Court of Canada.

<sup>3</sup> Results of appeals disposed of have been integrated into the statistics in this table.

\* By application of section 3 of the *PESRA*, the PSLREB acts as the Board for the purposes of that Act. Therefore, decisions issued by the Board under the *PESRA* are included in this chart.



# Appendix 3

## SYNOPSIS OF APPLICATIONS FOR JUDICIAL REVIEW OF DECISIONS RENDERED BY THE PSLRB AND THE PSST\* APRIL 1, 2010 to OCTOBER 31, 2014

	Number of applications	Applications withdrawn	Applications dismissed	Applications allowed	Applications pending <sup>1</sup>	Appeals of applications pending <sup>2</sup>
<b>YEAR 1</b> (April 1, 2010 to March 31, 2011)	30	5	22	9	0	0
<b>YEAR 2</b> (April 1, 2011 to March 31, 2012)	36	12	17	8	1	5
<b>YEAR 3</b> (April 1, 2012 to March 31, 2013)	32	5	30	1	1	4
<b>YEAR 4</b> (April 1, 2013 to March 31, 2014)	37	10	19	4	4	7
<b>YEAR 5</b> (April 1, 2014 to October 31, 2014)	17	2	3	0	12	0
<b>TOTAL</b>	<b>152</b>	<b>34</b>	<b>91</b>	<b>22</b>	<b>18</b>	<b>16</b>

Note: The figures for the last five fiscal years are not final, as not all the judicial review applications filed in those years have made their way through the Court system.

<sup>1</sup> Applications that have yet to be dealt with by the Federal Court. Does not include appeals pending before the Federal Court of Appeal or the Supreme Court of Canada.

<sup>2</sup> Results of appeals disposed of have been integrated into the statistics in this table.

\* By application of section 3 of the *PESRA*, the PSLREB acts as the Board for the purposes of that Act. Therefore, decisions issued by the Board under the *PESRA* are included in this chart.

\*\* Decisions rendered do not include cases dealt with under the expedited adjudication process and Managerial Exclusion Orders issued by the Board upon consent of the parties.