

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

I am pleased to submit the 2014/15 Annual Report outlining the activities of the Manitoba Labour Board for the period April 1, 2014 to March 31, 2015.

During this reporting period, the Manitoba Labour Board successfully fulfilled its mandate and met its objectives. The Board continued to modernize its practices and communications, enhanced its capacity to provide parties with quality mediation services, and developed new policies and procedures to provide for more efficient and expeditious resolution of disputes.

In support of these objectives, the Board conducted the first major review of the *Manitoba Labour Board Rules of Procedure* in over 25 years. This endeavour included broad consultation with the labour relations community who assisted in identifying necessary modifications of existing Board practices and procedures. To ensure effective consultation, the Board created the Labour Relations Community Advisory Committee, which includes an equal number of employer and employee representatives, to provide ideas regarding changes to the *Rules* as well as other matters respecting the Board's administrative activities.

In June of 2014, the Board hosted the Conference of Labour Board Chairpersons and Administrators. This Conference provides labour boards from across Canada with the opportunity to share experiences and ideas regarding how to provide optimal administrative and adjudicative services to the labour relations community.

This reporting period also included some significant changes in staffing and structure at the Board. Mr. Dale Paterson became the Board's first Executive Director, responsible for the overall responsibility for the Board's administrative activities. Mr. Paterson brings a wealth of experience and energy to this new leadership role.

Also during this reporting period, the Board's Registrar, Ms. Janet Duff, retired from the Government following a lengthy career with the Board. Ms. Duff was highly respected by the members of the Board and the labour relations community. Following Ms. Duff's retirement, Ms. Ruth Liwiski transitioned into the role of Registrar. Ms. Liwiski has brought her considerable knowledge, experience and dedication to her new role.

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

Colin S. Robinson  
Chairperson

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

J'ai le plaisir de remettre le rapport annuel 2014-2015 faisant état des activités de la Commission du travail du Manitoba du 1<sup>er</sup> avril 2014 au 31 mars 2015.

Au cours de cette période de déclaration, la Commission a respecté son mandat et a rempli ses objectifs. La Commission a continué de moderniser ses pratiques et ses communications, a amélioré sa capacité à offrir aux parties des services de médiation de qualité et a élaboré de nouvelles politiques et procédures afin de régler les différends plus efficacement et plus rapidement.

Pour appuyer ces objectifs, la Commission a effectué le premier examen d'envergure du *Règlement sur les règles de procédure de la Commission du travail* en 25 ans. Pour ce faire, elle a notamment procédé à une vaste consultation des intervenants du secteur des relations du travail, lesquels ont aidé à déterminer les changements qu'il est nécessaire d'apporter aux pratiques et procédures actuelles de la Commission. Pour garantir l'efficacité des consultations, la Commission a créé le comité consultatif communautaire des relations du travail. Composé d'un nombre égal de représentants des employeurs et des employés, le comité a pour mission de proposer des idées sur les changements à apporter au *Règlement* ainsi que sur d'autres questions ayant trait aux activités administratives de la Commission.

En juin 2014, la Commission a accueilli la conférence des présidents et des administrateurs de commissions du travail. Cette conférence donne l'occasion à des commissions du travail de tout le Canada d'échanger des expériences et des idées sur la façon d'offrir au secteur des relations du travail les meilleurs services administratifs et d'arbitrage possible.

Cette période de déclaration a également vu des changements importants dans le personnel et la structure de la Commission. M. Dale Paterson est devenu le premier directeur général de la Commission. Chargé de l'ensemble des activités administratives, il apporte à ce nouveau rôle de direction une expérience et une énergie considérables.

Toujours durant la période de déclaration, la registraire de la Commission, M<sup>me</sup> Janet Duff, a quitté le gouvernement afin de prendre sa retraite après une longue carrière à la Commission. M<sup>me</sup> Duff était hautement respectée des membres de la Commission et des intervenants du secteur des relations du travail. Elle a pour successeuse M<sup>me</sup> Ruth Liwiski, qui aborde ses nouvelles fonctions avec beaucoup de dévouement et un bagage impressionnant de connaissances et d'expérience.

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

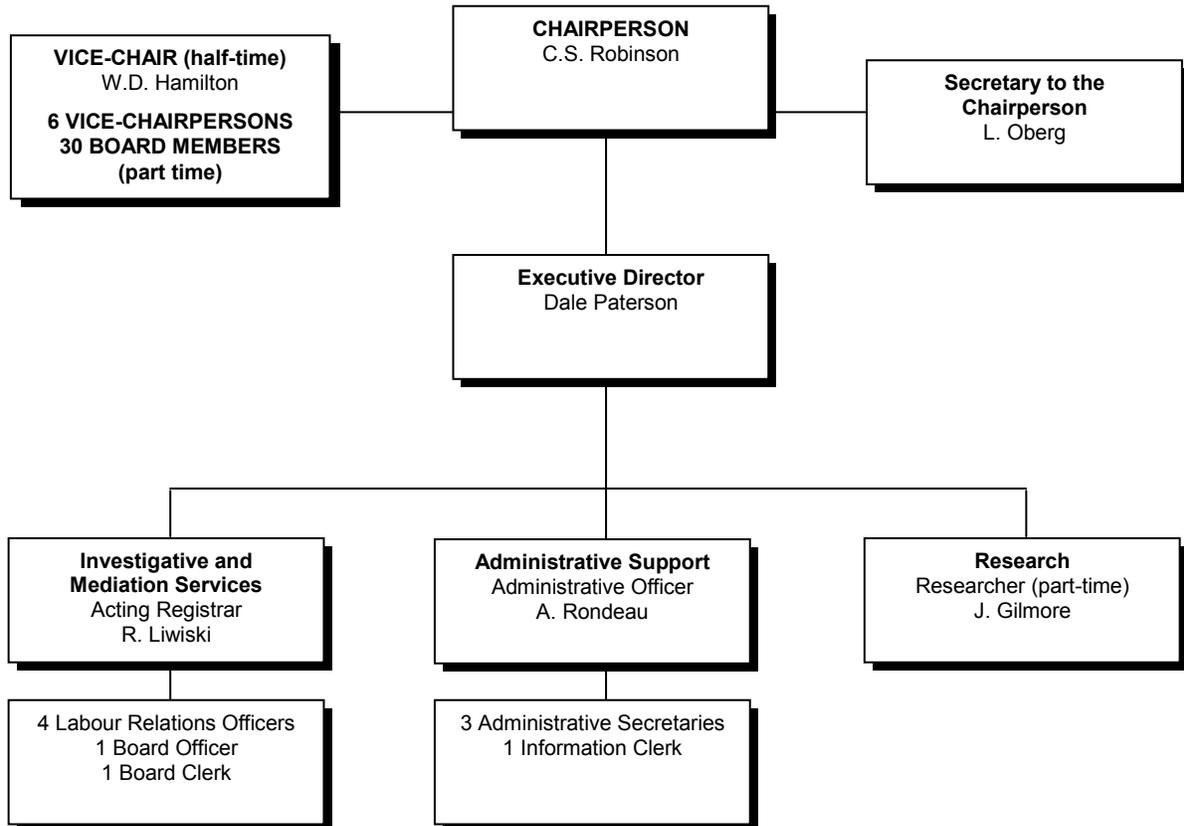
Le président  
Colin S. Robinson

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**Manitoba Labour Board  
Organization Chart  
as of March 31, 2015**



# The Manitoba Labour Board

## INTRODUCTION

### Report Structure

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

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

### Vision and Mission

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

### Objectives

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

### Role

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

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

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

***The Labour Relations Act***

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

***The Employment Standards Code***

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

***The Apprenticeship and Certification Act***

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

***The Elections Act***

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

***The Essential Services Act***

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

***The Pay Equity Act***

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

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

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

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

***The Public Schools Act***

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

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

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

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

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

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

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

## MANITOBA LABOUR BOARD MEMBERS

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

### Chairperson

#### **Colin S. Robinson**

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

### Vice-Chairpersons

#### **Kristin L. Gibson**

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

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

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

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

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

#### **M. Lynne Harrison**

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

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

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

#### **Michael D. Werier**

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

**Gavin M. Wood**

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

**Employer Representatives****Jim H. Baker, C.A.**

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

**Elizabeth M. (Betty) Black**

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

**Christiane Y. Devlin**

Appointed in 2002, Christiane Devlin has held senior management positions in human resources, integrating human resources within the business needs of companies in the communication and printing, agriculture, manufacturing, health care, retail co-operatives and transportation. 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.

**Tom Goodman**

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

**Colleen Johnston**

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

**Paul J. LaBossiere**

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

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

Appointed in 2003, Chris Lorenc is president of the Manitoba Heavy Construction Association, president of the Western Canada Roadbuilders and Heavy Construction Association, founding board member of the Manitoba Construction Sector Council, vice-chairperson of the Board of CentrePort Canada Inc, and member of the Blue Bomber Board of Directors. 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 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 Workers 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 a safety and disability management consultant and president of On-Site Safety and Health Management Solutions, a consulting company specializing in assisting companies to manage injury and illness in the workplace. Past experience includes director of safety and disability management with Deloitte; president, Milner Consulting, a company specializing in safety and disability claims management; human resources coordinator, Manitoba Health; and assistant director of Rehabilitation, Workers Compensation Board of Manitoba. Active in the Manitoba business community, she is involved with the Manitoba Employers Council, and the Manitoba and Winnipeg Chambers of Commerce.

**Brian Peto**

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

**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 and the Riverview Health Centre.

**Denis E. Sutton**

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

**Peter Wightman**

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

**Jim Witiuk**

Appointed in 2004, Jim Witiuk is the director of labour relations for Sobeys West Inc. with responsibility for labour relations matters in Manitoba, Saskatchewan and Ontario. 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.

**New Members****Lloyd Schreyer**

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

## **Employee Representatives**

### **L. Lea Baturin**

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

### **Beatrice Bruske**

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

### **Bill Comstock**

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

### **Irene E. Giesbrecht**

Appointed in 2002, Irene Giesbrecht was employed by the Manitoba Nurses Union (MNU) as chief negotiator from 1978 until her retirement in June 2008. She is a founding member of the Canadian Federation of Nurses Unions. Previous to joining the MNU, she was employed as a registered nurse. She is on the Automobile Injury Compensation Appeal Commission. She provides health care/labour relations advice on a part-time consulting basis. Ms. Giesbrecht's term expired December 31, 2014.

### **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 chief negotiator, 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.

### **Debra R. Grimaldi**

Appointed in 2010, Debra Grimaldi has been employed as a national servicing representative by the Canadian Union of Public Employees since 2000. As a servicing representative, she is actively involved in grievance processing, collective bargaining, conflict resolution and education of local unions. She is a graduate of the Labour College of Canada, class of 1989. Ms. Grimaldi retired from the Board in July 2014.

**Maureen Morrison**

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

**James Murphy**

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

**Edward (Dale) Neal**

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

**Sandra R.M. Oakley**

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

**Rik A. Panciera**

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

**Grant Rodgers**

Appointed in 1999, Grant Rodgers was employed for 33 years as a staff representative with the Manitoba Government and General Employees' Union (MGEU) and specialized for a number of years in grievance arbitration matters as well as collective bargaining. He holds a Bachelor of Commerce (Honours) degree from the University of Manitoba and is a graduate of the Harvard University Trade Union Program. Community involvement has included membership on the Red River College Advisory Board, director of the Winnipeg Blues Junior "A" hockey team, and involvement with Big Brothers of Winnipeg. Mr. Rodgers retired from the MGEU in January 2008 and has since done some part-time labour relations consulting. Mr. Rodgers' term expired December 31, 2014.

**Ron Stecy**

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

Construction Sector Council Board. He has served on the Electrical Trades Advisory Committees at Red River College and Assiniboine Community College. He was a delegate to the Winnipeg Labour Council, secretary-treasurer of the Allied Hydro Council and president of the Manitoba Building and Construction Trades Council. In 2011, Mr. Stecy was appointed to the Manitoba Labour Management Review Committee and the Advisory Council on Workplace Safety and Health.

**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.

**New Members**

**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.

**Shelley A. Neel**

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

**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.

**Glenn Tomchak**

Appointed in 2014, 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 2014/15, the Board was comprised of a full-time chairperson, one half-time vice-chairperson, six part-time vice-chairpersons and 30 board members with an equal number of employer and employee representatives. The chairperson is the presiding officer of the Board pursuant to the provisions of *The Labour Relations Act*. Part-time vice-chairpersons and board members are appointed by Order in Council and are paid in accordance with the number of meetings and hearings held throughout the year. The Board does not retain legal counsel on staff; legal services are provided through Civil Legal Services of Manitoba Justice.

### **Investigative and Mediation Services**

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

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

### **Administrative Services**

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

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

### **Research Services**

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

## Library Collection

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

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

## Publications Issued

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

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

## Website Contents

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

\*link to French version available

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

## E-mail

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

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

If you wish to file an application, contact:

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

## Information Bulletins

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

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

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).

The following Information Bulletins were issued or updated during the reporting period. The full text, in both English and French, follows.

- Information Bulletin No. 5 - Fee Schedule
- Information Bulletin No. 7 - Filing of Collective Agreements
- Information Bulletin No. 16 - Appointment of Arbitrators
- Information Bulletin No. 17 - Grievance Arbitration/Labour Relations Act
- Information Bulletin No. 18 - The Employment Standards Code – Appeal Hearings – Administrative Penalties
  
- Bulletin D'information No 5 - Barème des Droits
- Bulletin D'information No 7 - Dépôt des Conventions Collectives
- Bulletin D'information No 16 - Nomination d'Arbitres
- Bulletin D'information No 17 - Arbitrage des Grievs – Loi sur les Relations du Travail
- Bulletin D'information No 18 - Code des normes d'emploi – Audiences d'appel – Sanctions Administratives



**MANITOBA LABOUR BOARD**

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www.manitoba.ca/labour/labbrd

January 15, 2015

**MANITOBA LABOUR BOARD  
INFORMATION BULLETIN NO. 5  
FEE SCHEDULE**

The Manitoba Labour Board, by way of *Manitoba Labour Board Fees Regulation, Regulation 17/97 R* has established a fee schedule for the photocopying of material it provides as follows:

**Copying Fee**

A fee of \$0.25 per page is payable for the copying/faxing of the following:

- (a) reasons for decision or substantive orders\*;
- (b) orders of the board;
- (c) certificates;
- (d) arbitration awards;
- (e) collective agreements;
- (f) library material;
- (g) documents requested to be copied while attending a board hearing.

In cases where a document is available electronically and can be emailed, the copying fee will be waived.

**Processing Fee**

A fee of \$25 per hour, or portion thereof, will be charged for the processing of document requests. The fee will be waived where a person provides a reference number or other information which allows the request to be completed in 15 minutes or less.

It is preferred that requests for documents be sent in writing to the Board's general email at [mlb@gov.mb.ca](mailto:mlb@gov.mb.ca)

\* - The full text of reasons for decision and substantive orders issued since January 2007 are available on the [Board's website](#). The full text of Board decisions are available on-line through [LexisNexis Quicklaw](#). In addition, some decisions have been published in the Canadian Labour Law Reporter, in the Canadian Labour Relations Boards Reports and online at [CanLii.org](#).

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If you require additional information, please contact the Board's Information Clerk at 204-945-8185.

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**COMMISSION DU TRAVAIL DU MANITOBA**

175, rue Hargrave, bureau 500, 5<sup>e</sup> étage Winnipeg (Manitoba) R3C 3R8

Tél. : 204 945-2089 Téléc. : 204 945-1296

[www.gov.mb.ca/labour/labbrd/index.fr.html](http://www.gov.mb.ca/labour/labbrd/index.fr.html)

janvier 15, 2015

**COMMISSION DU TRAVAIL DU MANITOBA**

**BULLETIN D'INFORMATION No 5**

**BARÈME DES DROITS**

La Commission du travail du Manitoba, dans le [Règlement sur les droits exigés par la Commission du travail du Manitoba, Règlement 17/97 R](#), a établi un barème des droits pour la reproduction d'écrits et de documents qu'elle fournit. Le barème est le suivant :

**Droit - reproduction**

Un droit de 0,25 \$ par page est exigible pour la reproduction ou l'envoi par télécopieur des éléments suivants :

- (a) les motifs de décisions ou d'ordonnances importantes\*;
- (b) les ordonnances de la Commission;
- (c) les certificats;
- (d) les sentences arbitrales;
- (e) les conventions collectives;
- (f) les écrits de la bibliothèque;
- (g) les reproductions de documents exigées pendant les audiences de la Commission.

Si la version électronique d'un document peut être envoyée par courriel, le droit de reproduction ne sera pas exigé.

**Droit - traitement de demandes**

Un droit de 25 \$ par heure, ou par partie d'une heure, sera exigible pour le traitement de demandes de documents. Ce droit ne sera pas exigé si le demandeur fournit un numéro de référence ou un autre renseignement qui permet de traiter la demande en 15 minutes ou moins.

Il est préférable d'envoyer les demandes de documents par écrit à l'adresse courriel générale de Commission : [mlb@gov.mb.ca](mailto:mlb@gov.mb.ca).

\* - Il est possible de consulter le texte entier des motifs de décisions et d'ordonnances importantes délivrées depuis janvier 2007 sur le [site de la Commission](#). Le texte entier des décisions de la Commission se trouve en ligne sur le site de [LexisNexis Quicklaw](#). De plus, certaines décisions ont été publiées dans le Canadian Labour Law Reporter, dans les rapports des Commissions des relations de travail du Canada et en ligne sur le site [CanLii.org](#).

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Si vous avez besoin de renseignements supplémentaires, veuillez communiquer avec l'agent de renseignements de la Commission, au 204 945-8185.

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[www.manitoba.ca/labour/labbrd](http://www.manitoba.ca/labour/labbrd)

September 2, 2014

**MANITOBA LABOUR BOARD  
INFORMATION BULLETIN NO. 7  
FILING OF COLLECTIVE AGREEMENTS**

This bulletin is intended to inform the labour relations community of a change in process with respect to the filing of Collective Agreements, as contemplated by Section 72(2) of *The Labour Relations Act*.

Section 72(2) of *The Labour Relations Act* requires that two (2) copies of duly executed Collective Agreements be filed with the Manitoba Labour Board, and the parties shall comply in a like manner with respect to any amendment to a Collective Agreement which they may make during the term or prior to the termination thereof.

Effective immediately, it is the intent of the Manitoba Labour Board, to maintain its collection of Collective Agreements in electronic format.

Accordingly, as of this date, the Board shall require the filing of Collective Agreements in electronic format (suggest PDF or Word format), by e-mail to [mlb@gov.mb.ca](mailto:mlb@gov.mb.ca).

Further, in order to maintain our database, please confirm the industry/sub group of each agreement (as per the attached list) and indicate the number of employees affected by the Collective Agreement, in the text of your e-mail.

This change in administrative process shall enhance Collective Agreement retrieval and storage capabilities, and result in improved administrative efficiencies.

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If you require additional information, please contact the Board's office at 204-945-2089.

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September 2, 2014

**Employer:** \_\_\_\_\_  
**INDUSTRY AND SUB-GROUPS FOR CLASSIFICATION OF COLLECTIVE AGREEMENTS**

**Industry Sub-group**

- Agriculture Animal
- Crops
- Construction Buildings
- Heavy Construction
- Finance, Insurance & Real Estate Insurance Carriers
- Real Estate & Insurance Agencies
- Forestry
- Manufacturing Food & Beverage
- Tobacco, Rubber, Plastics & Leather
- Textiles & Knitting
- Clothing
- Computer Products
- Construction (Building Products)
- Wood, Paper & Furniture
- Printing & Publishing
- Primary Metal
- Metal Fabricating
- Machinery
- Transportation Equipment
- Electrical Products
- Non-metallic Mineral Products
- Petroleum, Coal & Chemical Products
- Other
- Mining
- Public Administration Provincial
- Local
- Service Child Care
- Construction (Maintenance)
- Education & Related
- Health & Welfare
- Amusement
- Security
- Services to Business Management
- Personal Services
- Accommodation & Food
- Trade Wholesale
- Retail
- Warehouse
- Transportation, Communication & Other Utilities Transportation
- Storage
- Communication
- Utilities
- Other

April 28, 2009



2 septembre 2014

**COMMISSION DU TRAVAIL DU MANITOBA  
BULLETIN D'INFORMATION N° 7  
DÉPÔT DES CONVENTIONS COLLECTIVES**

Le présent bulletin a pour but d'informer les intervenants du secteur des relations de travail d'une modification du processus relatif au dépôt des conventions collectives, comme cela est prévu au paragraphe 72(2) de la *Loi sur les relations du travail*.

Le paragraphe 72(2) de la *Loi sur les relations du travail* stipule que les parties à une convention collective doivent déposer deux copies de la convention collective, dûment passée, auprès de la Commission, et qu'elles doivent respecter toute modification à la convention collective apportée pendant qu'elle est en vigueur.

À compter d'aujourd'hui, la Commission du travail du Manitoba entend continuer à recevoir les conventions collectives en format électronique.

Par conséquent, à partir de cette date, toute convention collective doit être déposée auprès de la Commission par voie électronique (p. ex., en format PDF ou Word) à l'adresse : [mlb@gov.mb.ca](mailto:mlb@gov.mb.ca).

Par ailleurs, en vue de maintenir notre base de données, nous vous prions de préciser à quelle industrie et à quel sous-groupe se rattache chaque convention (voir liste ci-jointe), et d'indiquer dans le texte de votre courriel le nombre d'employés concernés par la convention collective.

Cette modification du processus administratif permettra d'améliorer les capacités de stockage et de récupération des données et de réaliser des économies administratives.

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Si vous avez besoin de plus amples renseignements, veuillez communiquer avec le bureau de la Commission au 204 945-2089.

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2 septembre 2014

## INDUSTRIES ET SOUS-GROUPES POUR LA CLASSIFICATION DES CONVENTIONS COLLECTIVES

### Industries Sous-groupes

- Agriculture Animaux
- Plantes cultivées
- Construction Bâtiments
- Construction lourde
- Finances, assurances et immobilier Sociétés d'assurance
- Agences immobilières et d'assurances
- Foresterie
- Industrie manufacturière Aliments et boissons
- Tabac, caoutchouc, plastiques et cuirs
- Textiles et tricotage
- Vêtements
- Produits informatiques
- Matériaux de construction
- Bois, papier et meubles
- Imprimerie et édition
- Métal de première fusion
- Fabrication de produits métalliques
- Machines
- Matériel de transport
- Produits électriques
- Produits minéraux non métalliques
- Pétrole, charbon et produits chimiques
- Autre : \_\_\_\_\_
- Mines
- Administration publique Provinciale
- Locale
- Services Garde d'enfants
- Construction (entretien)
- Éducation et services connexes
- Santé et bien-être
- Loisirs
- Sécurité
- Gestion d'entreprise
- Services personnels
- Hébergement et restauration
- Commerce De gros
- De détail
- Entrepôts
- Transport, communications et autres services Transport
- Entreposage
- Communications
- Autres services publics
- Autre \_\_\_\_\_

Le 28 avril 2009



**MANITOBA LABOUR BOARD**

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**MANITOBA LABOUR BOARD  
INFORMATION BULLETIN NO. 16  
APPOINTMENT OF ARBITRATORS**

This bulletin is intended to inform the labour relations community of a process that has been implemented in respect of the appointment of Arbitrators to Expedited Arbitration Referrals under Section 130 of **The Labour Relations Act** as well as Board Appointments of Arbitrators, Chairpersons, and/or Nominees, as contemplated by Part VII of **The Labour Relations Act**.

In circumstances where the Collective agreement between the parties contains a list of accepted Arbitrators, such appointment shall be made based on the list as contained in the Collective Agreement, limited to those named individuals who form part of the list of Arbitrators established by the Manitoba Labour Board. In the event that none of the Arbitrators listed in the Collective Agreement are available to accept the appointment, the Board shall proceed to appoint an Arbitrator from the list of arbitrators established by the Board.

The Board will continue to allow each party one Veto per referral. Once the veto has been made known to the board officer, an arbitrator will be selected on the basis of who is available next. Please note that the veto ONLY applies to Expedited Arbitration referrals and does not apply to other Arbitrators or Chairpersons of arbitration boards appointed by the Board in other contexts or under other statutes (eg. The appointment of a Chairperson to an interest arbitration board under **The Public Schools Act**, C.C.S.M. c. P250, where parties have been unable to agree).

Having regard to the above, the parties are reminded that information provided to the Board, both in #10 of Form XV (Expedited Arbitration Referral Form) and/or in support of any request for the appointment of an Arbitrator, Chairperson to a conventional Arbitration, should be accurate and complete.

A copy of **The Labour Relations Act**, C.C.S.M. c. L10, and the **Manitoba Labour Board Rules of Procedure, Regulation 184/87 R**, may be viewed on the Board's website at [www.manitoba.ca/labour/labbrd](http://www.manitoba.ca/labour/labbrd), and/or obtained from Statutory Publications, 10<sup>th</sup> Floor – 155 Carlton Street, Winnipeg MB R3C 3H8, Telephone: 204-945-3101.

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If you require additional information, please contact the Board's office at 204-945-2089.

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**COMMISSION DU TRAVAIL DU MANITOBA**

175, rue Hargrave, bureau 500, 5<sup>e</sup> étage Winnipeg (Manitoba) R3C 3R8

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[www.gov.mb.ca/labour/labbrd/index.fr.html](http://www.gov.mb.ca/labour/labbrd/index.fr.html)

**COMMISSION DU TRAVAIL DU MANITOBA  
BULLETIN D'INFORMATION N° 16  
NOMINATION D'ARBITRES**

Le présent bulletin a pour but d'informer les intervenants du milieu des relations de travail d'un processus qui a été mis en œuvre relativement à la nomination d'arbitres en vue du traitement des demandes de renvoi en arbitrage accéléré, conformément à l'article 130 de la **Loi sur les relations du travail**, ainsi qu'à la nomination d'arbitres par la Commission du travail du Manitoba (la « Commission »), de présidents ou d'autres personnes désignées, tel que prévu dans la partie VII de la **Loi**.

Dans les circonstances où la convention collective conclue entre les parties comprend une liste d'arbitres désignés, la nomination d'un arbitre sera faite d'après la liste telle qu'elle figure dans la convention collective (limitée aux personnes indiquées sur la liste d'arbitres de la Commission). Si aucun des arbitres figurant sur la liste de la convention collective n'est en mesure d'accepter la nomination, la Commission procédera à la nomination d'un arbitre de la liste d'arbitres établie par la Commission.

La Commission permettra toujours à chaque partie d'exercer son droit de veto une seule fois par renvoi. Une fois que le veto aura été communiqué à l'agent de la Commission, un autre arbitre sera désigné en fonction de la disponibilité. Veuillez noter que le veto s'applique **UNIQUEMENT** aux demandes de renvoi en arbitrage accéléré, pas à d'autres arbitres ou présidents de conseils d'arbitrage établis par la Commission dans d'autres contextes ou en vertu d'autres lois (p. ex., la nomination d'un président à un conseil d'arbitrage d'intérêts, en vertu de la **Loi sur les écoles publiques**. CPLM. c. P250, lorsque les parties ne peuvent en venir à un accord).

Compte tenu de ce qui précède, il est rappelé aux parties que les renseignements fournis à la Commission, dans la partie n° 10 de la formule XV (demande de renvoi à l'arbitrage accéléré) et à l'appui de toute demande de nomination d'un arbitre ou d'un président à un conseil d'arbitrage conventionnel, doivent être exacts et complets.

Il est possible de consulter la **Loi sur les relations du travail**, C.P.L.M. c. L10 et le **Règlement sur les règles de procédure de la Commission du travail**, R.M. 184/87 R, sur le site Web de la Commission du travail à [www.gov.mb.ca/labour/labbrd/index.fr.html](http://www.gov.mb.ca/labour/labbrd/index.fr.html), ou d'en obtenir une copie à la Section des publications officielles, 155, rue Carlton, 10<sup>e</sup> étage, Winnipeg (Manitoba) R3C 3H8, téléphone : 204 945-3101.

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Si vous avez besoin de plus amples renseignements, veuillez communiquer avec le bureau de la Commission au 204 945-2089.

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[www.manitoba.ca/labour/labbrd](http://www.manitoba.ca/labour/labbrd)

**MANITOBA LABOUR BOARD  
 INFORMATION BULLETIN NO. 17  
 GRIEVANCE ARBITRATION/LABOUR RELATIONS ACT**

This bulletin is intended to provide the labour relations community with the requirements relative to the filing of Applications Requesting Manitoba Labour Board Appointment(s) of Arbitrators, Chairpersons, and/or Nominees, as contemplated by Part VII of *The Labour Relations Act*.

Effective immediately, the following documentation **SHALL** be required to be filed, in accordance with the *Manitoba Labour Board Rules of Procedure*:

- Statutory Declaration on Form "A";
- Letter specifying type of request;
- Clarification as to the specific grievance(s) which is/are the subject of dispute;
- Copy of correspondence exchanged between the parties, where applicable, specific to the initiation of the Arbitration process;
- Copy of the Collective Agreement(s) relative to the grievance(s) referenced.

Further, in keeping with Information Bulletin #16, namely in circumstances where the Collective Agreement between the parties contains a list of accepted arbitrators, such appointment shall be made, based on the list as contained in the Collective Agreement, limited to those named individuals who form part of the list of Arbitrators established by the Manitoba Labour Board, the following information is required:

- Does your Collective Agreement contain a list of accepted Arbitrators? \_\_\_\_\_
- If so, please name individuals in the order they appear in the Collective Agreement.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

- Who was the last Arbitrator appointed through the provisions of the Collective Agreement?

\_\_\_\_\_

In the event that none of the Arbitrators listed in the Collective Agreement are available to accept the appointment, the Board shall proceed to appoint an Arbitrator from the list of arbitrators established by the Board.

A copy of *The Labour Relations Act*, C.C.S.M. c. L10, and the *Manitoba Labour Board Rules of Procedure, Regulation 184/87 R*, may be viewed on the Board's website at [www.manitoba.ca/labour/labbrd](http://www.manitoba.ca/labour/labbrd), and/or obtained from Statutory Publications, 10<sup>th</sup> Floor – 155 Carlton Street, Winnipeg MB R3C 3H8, Telephone: 204-945-3101.

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If you require additional information, please contact the Board's office at 204-945-2089.

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**COMMISSION DU TRAVAIL DU MANITOBA**

175, rue Hargrave, bureau 500, 5<sup>e</sup> étage Winnipeg (Manitoba) R3C 3R8

Tél. : 204 945-2089 Téléc. : 204 945-1296

[www.gov.mb.ca/labour/labbrd/index.fr.html](http://www.gov.mb.ca/labour/labbrd/index.fr.html)

**COMMISSION DU TRAVAIL DU MANITOBA**

**BULLETIN D'INFORMATION N° 17**

**ARBITRAGE DES GRIEFS – LOI SUR LES RELATIONS DU TRAVAIL**

Le présent bulletin a pour objet d'informer les intervenants du milieu des relations du travail des exigences relatives au dépôt de demandes concernant la nomination d'arbitres, de présidents ou d'autres personnes désignées, tel que prévu dans la partie VII de la **Loi sur les relations du travail**.

À compter d'aujourd'hui, la documentation suivante **DOIT** être déposée, conformément au **Règlement sur les règles de procédure de la Commission du travail** :

- la déclaration solennelle faite sur la formule A;
- une lettre indiquant le type de demande;
- un document expliquant clairement le ou les griefs particuliers faisant l'objet du différend;
- le cas échéant, une copie de la correspondance échangée entre les parties se rapportant directement au lancement du processus d'arbitrage;
- une copie de la ou des conventions collectives relatives au ou aux griefs présentés.

De plus, conformément au Bulletin d'information n° 16, à savoir dans les circonstances où la convention collective conclue entre les parties comprend une liste d'arbitres désignés, la nomination sera faite en fonction de la liste de personnes désignées dans la convention collective et sera limitée aux personnes dont le nom figure sur la liste d'arbitres établie par la Commission. L'information suivante est requise :

- Votre convention collective comprend-elle une liste d'arbitres désignés? \_\_\_\_\_
- Dans l'affirmative, veuillez indiquer les noms des personnes dans l'ordre où ils apparaissent dans la convention collective.

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- Qui était le dernier arbitre nommé en fonction des dispositions de la convention collective?

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Si aucun des arbitres figurant sur la liste de la convention collective n'est en mesure d'accepter la nomination, la Commission procédera à la nomination d'un arbitre d'après la liste d'arbitres établie par la Commission.

Il est possible de consulter la **Loi sur les relations du travail**, C.P.L.M. c. L10, et le **Règlement sur les règles de procédure de la Commission du travail**, R.M. 184/87 R, sur le site Web de la Commission du travail à [www.gov.mb.ca/labour/labbrd/index.fr.html](http://www.gov.mb.ca/labour/labbrd/index.fr.html), ou d'en obtenir une copie à la Section des publications officielles, 155, rue Carlton, 10<sup>e</sup> étage, Winnipeg (Manitoba) R3C 3H8, téléphone : 204 945-3101.

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Si vous avez besoin de plus amples renseignements, veuillez communiquer avec le bureau de la Commission au 204 945-2089.

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**MANITOBA LABOUR BOARD**

Suite 500, 5<sup>th</sup> Floor, 175 Hargrave Street, Winnipeg MB R3C 3R8

T 204 945-2089 F 204 945-1296

[www.manitoba.ca/labour/labbrd](http://www.manitoba.ca/labour/labbrd)

September 2, 2014

**MANITOBA LABOUR BOARD**

**INFORMATION BULLETIN NO. 18**

**THE EMPLOYMENT STANDARDS CODE - APPEAL HEARINGS - ADMINISTRATIVE PENALTIES**

This bulletin is intended to help you prepare for your hearing at the Manitoba Labour Board (the “**Labour Board**”). It is a general guideline and does not attempt to address every issue that may arise.

Under Regulation 29(1) of **The Employment Standards Regulation** (6/2007), (the “**Regulation**”), the Director of the Employment Standards Division (the “**Director**”) may impose an administrative penalty as set out in the schedule for a contravention of a provision of **The Employment Standards Code**, C.C.S.M. c. E110, (the “**Code**”), or of **The Construction Industry Wages Act** listed in the Schedule.

Pursuant to Section 138.2(1) of the **Code**, the person named in a notice of administrative penalty may, in accordance with subsection (2), request the **Director** to refer to the Labour Board for an appeal of the penalty. Upon receipt of the request, the **Director** must refer the matter to the Labour Board.

Section 138.2(2) of the **Code**, reads as follows:

**How to appeal**

138.2(2) The request to refer a notice of administrative penalty to the board

- (a) must include a statement of the facts and reasons for the appeal; and
- (b) must be filed with the director
  - (i) within 30 days after the notice is served on the person, if the penalty is in respect of a matter for which an order was made under subsection 96.1(1) (compensation or reinstatement), and
  - (ii) in any other case, within seven days after the notice is served on the person,

or within any further period of time allowed by the director.

**Deposit**

138.2(3) At the time of filing the request with the director, the person filing it must deposit with the director an amount equal to the penalty being appealed.

**THE EMPLOYMENT STANDARDS CODE - APPEAL HEARINGS - ADMINISTRATIVE PENALTIES**

As to procedure, upon referral of an appeal from a notice of administrative penalty, a Notice of Hearing is served on the Employer seeking appeal of the administrative penalty and on the **Director**.

The **Director** is a party to these proceedings and has standing to appear before the Labour Board and may be represented by Counsel and you may choose to be represented by a lawyer or other person or you may represent yourself.

After hearing the appeal, the board, pursuant to Section 138.2(6) of the **Code**,

- (a) Must confirm or revoke the penalty; and
- (b) If the penalty is confirmed, may award costs against the person required to pay the penalty if, in the board's opinion,
  - (i) The person's conduct before the board was unreasonable, or
  - (ii) The appeal was frivolous or vexatious.

Please Note:

All information contained in the Referral Package received from the Division and all information provided to the Labour Board at the hearing of an appeal is available to all parties to the appeal. Any information contained in the Referral Package and any testimony provided in evidence during the course of the hearing, may be referred to in a Substantive Order or Written Reasons for Decision issued by the Board which are thereafter published by the Board and provided to private publishers who may re-publish same, in whole or in part, in print or online.

Copies of **The Employment Standards Code**, C.C.S.M. c. E110, may be viewed on the Provincial Government website at [www.manitoba.ca/labour](http://www.manitoba.ca/labour) and/or obtained from Statutory Publications, 10<sup>th</sup> Floor – 155 Carlton Street, Winnipeg MB R3C 1T5, Telephone: 204-945-3101

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If you require additional information, please contact the Board's office at 204-945-2089.

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2 septembre 2014

**COMMISSION DU TRAVAIL DU MANITOBA**

**BULLETIN D'INFORMATION N° 18**

**CODE DES NORMES D'EMPLOI – AUDIENCES D'APPEL – SANCTIONS ADMINISTRATIVES**

Le présent bulletin a pour but de vous aider à vous préparer en vue de votre audience d'appel devant la Commission du travail du Manitoba (la « **Commission** »). Il offre des directives générales seulement et ne vise pas à répondre à toutes les questions qui pourraient être posées.

En vertu du paragraphe 29(1) du **Règlement sur les normes d'emploi** (6/2007) (le « **Règlement** »), le directeur de la Division des normes d'emploi (le « **directeur** ») peut imposer une sanction administrative visée à l'annexe pour contravention à une disposition du **Code** (c. E110 de la C.P.L.M.) (le « **Code** ») ou de la *Loi sur les salaires dans l'industrie de la construction* inscrite à l'annexe.

Aux termes du paragraphe 138.2(1) du **Code**, la personne nommée dans un avis de sanction administrative peut, en conformité avec le paragraphe (2), demander au **directeur** de le renvoyer à la Commission afin qu'il soit interjeté appel de la sanction. Dès qu'il reçoit la demande, le **directeur** renvoie la question à la Commission

Le paragraphe 138.2(2) du **Code** précise ce qui suit :

**Modalités d'appel**

- 138.2(2) La demande de renvoi d'un avis de sanction administrative :
- a) contient un énoncé des faits et des motifs d'appel;
  - b) est déposée auprès du directeur soit dans les 30 jours suivant la date à laquelle l'avis est signifié à la personne, si la sanction concerne une question à l'égard de laquelle un ordre a été donné en vertu du paragraphe 96.1(1), soit dans les 7 jours suivant la signification de l'avis, dans les autres cas, soit dans le délai supplémentaire qu'accorde le directeur.

**Dépôt**

138.2(3) La personne qui dépose la demande dépose en même temps auprès du directeur une somme correspondant à la sanction faisant l'objet de l'appel.

Quant à la procédure, dès le renvoi d'un appel concernant un avis de sanction administrative, l'employeur interjetant appel de la sanction administrative ainsi que le **directeur** reçoivent signification d'un avis d'audience.

Le **directeur** a qualité pour comparaître devant la Commission à titre de partie à une affaire renvoyée à celle-ci, et il peut se faire représenter par avocat. Vous pouvez choisir de vous faire représenter par un avocat ou une autre personne, ou vous pouvez vous représenter vous-même.

Après avoir entendu l'appel, la Commission, en vertu du paragraphe 138.2(6) du **Code** :

- (a) confirme ou annule la sanction;
- (b) si la sanction est confirmée, peut adjuger des dépens contre la personne tenue de la payer si elle estime :
  - (i) soit que cette personne s'est comportée d'une manière déraisonnable devant elle,
  - (ii) soit que l'appel était frivole ou vexatoire.

Remarque :

Toute l'information contenue dans la Trousse de renvoi reçue de la Division et toute l'information fournie à la Commission pendant l'audience d'appel peuvent être consultées par les parties en cause. L'information contenue dans la Trousse de renvoi et tout élément de preuve produit à l'audience peuvent être mentionnés dans une ordonnance importante ou dans des motifs écrits des décisions rendus par la Commission qui sont par la suite publiés par la Commission et fournis à des éditeurs privés qui peuvent les rééditer, en entier ou en partie, en version papier ou en ligne.

Il est possible de consulter le **Code des normes d'emploi**, C.P.L.M. c. E110, sur le site Web du gouvernement provincial au ` , ou d'en obtenir des copies auprès du Bureau des publications officielles, 155, rue Carlton, 10<sup>e</sup> étage, Winnipeg (Manitoba) R3C 1T5, téléphone : 204 945-3101.

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Si vous avez besoin de plus amples renseignements, veuillez communiquer avec le bureau de la Commission au 204 945-2089.

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## SUSTAINABLE DEVELOPMENT

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

## FINANCIAL INFORMATION

<b>Expenditures by Sub-Appropriation</b>	<b>Actual 2014/15 (\$000s)</b>	<b>FTE</b>	<b>Estimate 2014/15 \$(000s)</b>	<b>Variance Over/(Under) \$(000s)</b>	<b>Expl. No.</b>
Total Salaries	1,365	16.50	1,388	(23)	
Total Other Expenditures	417		443	(26)	
<b>Total Expenditures</b>	<b>1,782</b>	<b>16.50</b>	<b>1,831</b>	<b>(49)</b>	

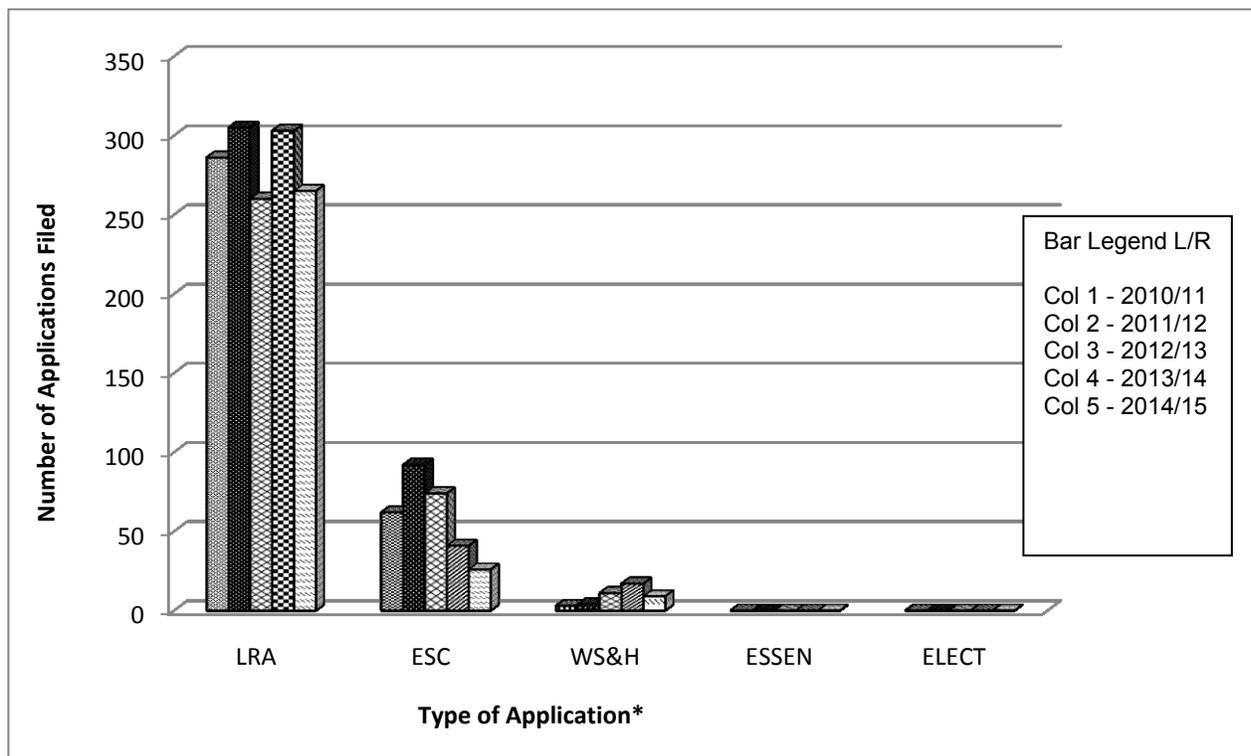
# PERFORMANCE REPORTING

## Summary of Performance

The Manitoba Labour Board adjudicated disputes referred to it under various provincial statutes and its decisions established policy, procedures and precedent and provided for a sounder, more harmonious labour relations environment. The Board conducted formal hearings; however, a significant portion of the Board's workload was administrative in nature. When possible, the Board encouraged the settlement of disputes in an informal manner by appointing a board representative to mediate outstanding issues and complaints. During the 2014/15 fiscal year, issues before the Board were resolved or narrowed in 57 percent of cases where a representative was formally appointed or assisted the parties informally through the dispute mediation process. In addition, the Board monitored its internal processes to improve efficiencies and expedite processing of applications or referrals.

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

**Manitoba Labour Board  
Number of Applications Filed**



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

Detailed statistical tables can be found beginning on page 63 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

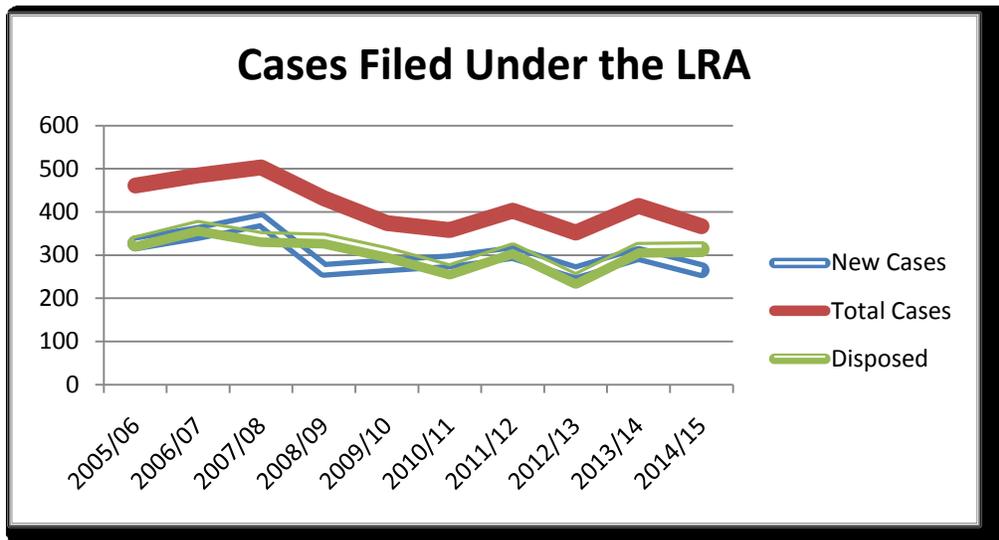
April 1 - March 31

Indicator	Actual 2013/14	Actual 2014/15
Percentage of Cases disposed of	76%	85%
Number of hearing dates scheduled	355	230
Percentage of hearings that proceeded	30%	27%
Number of votes conducted	14	25
Median processing time (calendar days):		
<i>The Labour Relations Act</i>	60	68.5
<i>The Workplace Safety and Health Act</i> <sup>1</sup>	127.5	137
<i>The Essential Services Act</i>	NA	NA
<i>The Elections Act</i>	NA	NA
<i>The Employment Standards Code</i>	122.5	99.5

"NA" - No applications processed in reporting period

<sup>1</sup> - The median processing time for applications filed under *The Workplace Safety and Health Act* was based on the processing of 14 cases in 2013/14 and 15 cases in 2014/15. The processing times are not necessarily indicative of the normal median processing times of the Board.

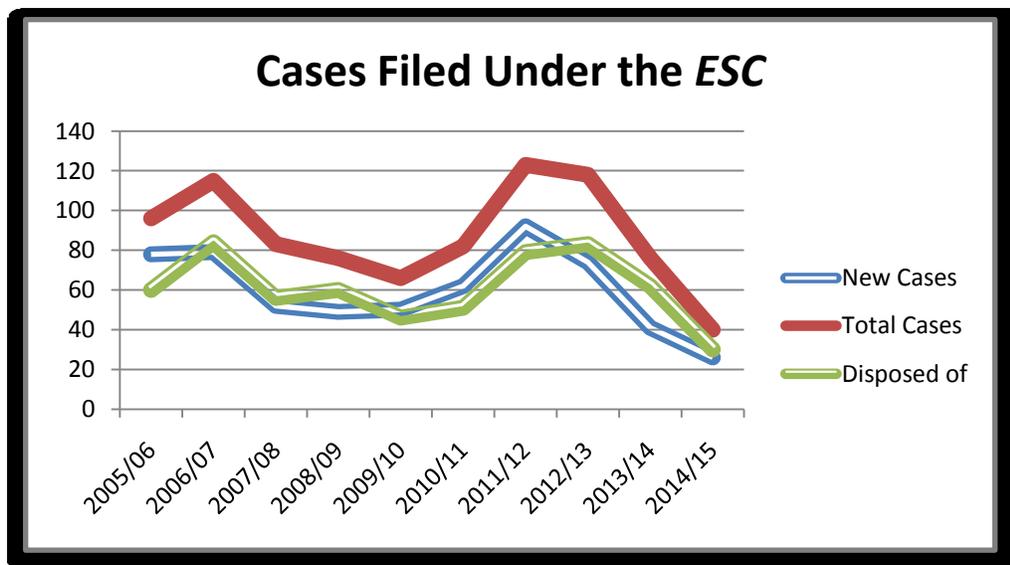
## Ten Year Trends



The ten-year trend in the number of new cases filed under *The Labour Relations Act* ranges from the minimum of 260 applications filed in 2012/13 to a maximum of 381 filed in 2007/08. The average number of applications filed each year is 302 files.

On average, the Board disposed of 310 cases per year which were filed under *The Labour Relations Act*.

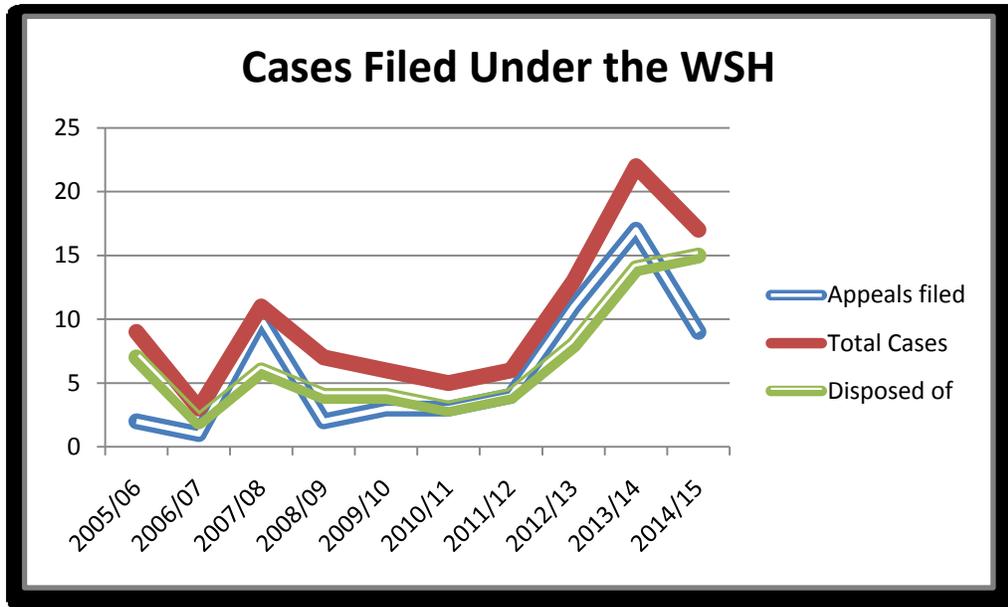
	Min	Max	Avg
Cases Filed	260	381	302
Total Cases	352	503	414.9
Disposed	241	363	310.3



The ten-year trend in the number of new cases filed under *The Employment Standards Code* ranges from the minimum of 26 applications filed in 2014/15 to a maximum of 92 filed in 2011/12. The average number of applications filed each year is 60 files.

On average, the Board disposed of 61 cases per year which were filed under *The Employment Standards Code*.

	<b>Min</b>	<b>Max</b>	<b>Avg</b>
New Cases	26	92	60.3
Total Cases	40	123	87.5
Disposed of	30	84	61.1



The ten-year trend in the number of new cases filed under *The Workplace Safety and Health Act* ranges from the minimum of 1 application filed in 2006/07 to a maximum of 17 filed in 2014/15. The average number of applications filed each year is 6 files.

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

	<b>Min</b>	<b>Max</b>	<b>Avg</b>
New Cases	1	17	6.2
Total Cases	3	22	9.9
Disposed of	2	15	6.7

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

- 424 cases before the Board (pending from previous period plus new applications);
- 359 (85 percent) of the cases before the Board were disposed of/closed;
- 120 applications scheduled for hearing;
- 62 hearing dates proceeded;
- Board conducted 25 votes; and
- Issued 57 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 and to increase efficiencies;
- Modernize communications;
- Expand information available on the website for ready access by the labour relations community, legal practitioners, educators and the public;
- Maintain accountability for allocated budget;
- Explore options for creating efficiencies and reducing costs; and,
- Reduce the length of time that is required to finalize matters brought to the Board.

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

- 424 cas ont été portés devant la Commission (demandes en instance depuis l'exercice précédent et nouvelles demandes).
- 85 % des cas portés devant la Commission (359) ont été réglés ou classés.
- Une date d'audience a été fixée pour 120 demandes.
- La Commission a tenu 62 audiences.
- La Commission a tenu 25 votes.
- La Commission a rendu 57 motifs écrits de décision ou ordonnances importantes.

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

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

## SUMMARIES OF SIGNIFICANT BOARD DECISIONS

During the reporting period, the Board issued 57 Written Reasons for Decision or Substantive Orders.

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

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

#### **Sun Gro Horticulture Canada Ltd., Manitoba Division and FPM Peat Moss Co. - and – United Food and Commercial Workers Union, Local No. 832**

Case No. 215/13/LRA

April 11, 2014

**COMMON EMPLOYER** - Union sought declaration pursuant to Section 59(1) of *The Labour Relation Act* that Employers, which operated peat moss plants, were carrying on associated and related activities and were businesses under common control and direction - Board noted one Employer had purchased shares of parent company of other Employer - While local management of each company reported to same vice-president in Florida, day to day operations of each company continued on independent basis - Board satisfied there had been no integration of operations and each continued to harvest, process and sell its own products - There had been no intermingling of employees, and processes, such as payroll functions, remained separate - No evidence of erosion of Union's bargaining rights - Board satisfied no valid labour relations purpose for issuing common employer declaration - Application dismissed.

#### **Bobcat of Central Manitoba - and - B.L.**

Case No. 200/13/LRA

May 16, 2014

**UNFAIR LABOUR PRACTICE** – Exercising Legislative Rights - Employee alleged his employment was terminated after he informed Employer that he filed complaint with Employment Standards Division – Board satisfied that Employer had established, on balance of probabilities, that its decision to terminate Employee was motivated by its concerns with respect to Employee's aggressive and abusive treatment of its bookkeeper which Board found was legitimate reason or motivation for decision to terminate - Board satisfied, on balance of probabilities, that decision to terminate was not based on or motivated by filing of complaint with Employment Standards Division – Substantive Order.

**REMEDY** – Jurisdiction – Employee sought to have his workers' compensation (WCB) benefits reinstated and his record of employment (ROE) overturned – Board's remedial jurisdiction limited by what was set out in *The Labour Relations Act*, and did not include jurisdiction to order reinstatement of WCB benefits or reissuance of ROE.

#### **Seven Oaks School Division - and - Canadian Union of Public Employees, Local 949 - and - N.P.**

Case No. 45/14/LRA

May 29, 2014

**DUTY OF FAIR REPRESENTATION - TIMELINESS** - Employee, as counselled by Union representative, resigned during probationary period to avoid termination and to be allowed to remain on casual list to apply for other positions with Employer - Soon after, Employee applied for, but was unsuccessful applicant, for two job postings - Two years later, Employee filed Duty of Fair Representation application - Board found, according to material filed in application, Employee had necessary information to make complaint by time of second job posting - No reason for Employee to maintain she was not made aware of alleged violation until she talked with president of Union two years later - Application untimely and was dismissed - Substantive Order.

**DUTY OF FAIR REPRESENTATION - Reasonable Care** - Employee, as counselled by Union representative, resigned during probationary period to avoid termination and to remain on casual list to apply for other positions with Employer - Employee unsuccessfully applied for two postings - Two years later, Employee filed Duty of Fair Representation application - Board found Union acted appropriately by representing and assisting Employee at meetings with Employer with regards to Employee's difficulties during probationary period - No indication Union had any hostility or ill-will towards Employee or had discriminated against Employee - Union provided appropriate advice that Employee resign - Union not in position to force Employer to accept Employee for first job posting for which she did not have skills and ability - Second position awarded to person lower in seniority to Employee, but posting was ultimately cancelled - Employee's complaint appeared to have been made after she was unable to obtain any positions for two-and-a-half-year period which did not constitute valid complaint within Section 20 of *The Labour Relations Act* - Application dismissed - Substantive Order.

**CancerCare Manitoba - and - Manitoba Association of Health Care Professionals**

Case No. 126/11/LRA

June 4, 2014

**CERTIFICATION - Classification** - Union sought Board Determination that individuals employed in classification of Radiation Safety Officer (RSO) were employees as contemplated by *The Labour Relations Act* and classification fell within scope of certificate between Union and Employer which was limited to specifically named classifications - Board held Applicant sought Determination that classification, with very different functions, duties and responsibilities than performed by any in scope classification, be included in Certificate and covered by collective agreement, without affording employees in that classification the right to express their wishes - Board must be vigilant in ensuring that bargaining agents do not circumvent certification process by improperly attempting to gain bargaining rights in that manner - Application dismissed - Substantive Order.

**EVIDENCE - Onus** - Board has consistently held that the party seeking to change status quo by including position or classification in bargaining unit that had not previously been included, bears onus to prove that there had occurred material and significant change sufficient to sustain conclusion that position should from now then on be included in bargaining unit - Substantive Order.

**City of Winnipeg - and - Canadian Union of Public Employees, Local 500 - and - D.L.**

Case No. 135/14/LRA

June 5, 2014

**DUTY OF FAIR REPRESENTATION - Prima facie** - A month after Employee resigned his employment he requested that Union ask Employer to rescind his resignation - Employer advised it no longer considered him to be employee - Five months later, Employee contacted Union which advised him, as he was no longer employed within its bargaining unit and no grievances or other issues were outstanding regarding his employment with Employer, his file was closed - It also advised if he had any outstanding concerns he should submit them in writing to Regional Director - Board noted Employee did not contact Union's Regional Director and written material did not indicate that Employee ever asked Union to file a grievance with respect to his attempt to rescind his resignation or any other matter - Held Employee failed to satisfy that there existed a *prima facie* case that Union acted in arbitrary, discriminatory or bad faith manner in representing his rights - Application dismissed - Substantive Order.

**DUTY OF FAIR REPRESENTATION - TIMELINESS** - Application filed nearly one year after Employee knew Union was not prepared to continue to represent him with respect to his alleged issues with Employer - In past decisions, Board has concluded that "undue delay" means delays of as little as six months - Board satisfied Application was filed long after Employee knew all facts and circumstances in support of his position that Union committed unfair labour practice - Held Employee unduly delayed in filing Application - Application dismissed - Substantive Order.

**Viterra Inc. - and - International Brotherhood of Electrical Workers, Local 2085**

Case No. 288/13/LRA

June 10, 2014

**JURISDICTION** - Constitutional - Grains - Union filed application for certification for unit of electrical foremen, journeymen electricians, electrician-welders, registered apprentices and cable splicers employed in canola processing plant operated by Employer - Union submitted canola seeds were processed into finished oil product for human consumption and such an operation did not fall within federal jurisdiction - Board satisfied that majority of work was devoted to production of livestock/cattle feed and this essential and predominant characteristic was sufficient to bring plant within definition of "feed mill", "feed warehouse", or "seed cleaning mill" - Board satisfied plant was an "elevator" within meaning of Section 55(1) of the *Canada Grain Act* and that operation fell within definition of "feed mill", "feed warehouse" and or "seed cleaning mill" pursuant to Section 45 of the *Canadian Wheat Board (Interim Operations) Act* - Board did not find Union's reliance that plant was subject to some provincial food inspection and licencing requirements, and that its operations may be subject to other provincial laws to be persuasive as many federal undertakings or businesses are subject to provincial laws of general application, particularly where no countervailing federal law or regulation is in effect - Board determined it did not have constitutional jurisdiction to entertain Application - Application dismissed - Substantive Order.

**Winnipeg Dodge Chrysler Ltd., W.M., J.D., J.C., and S.B. - and - United Steelworkers, Local 9074**

Case No. 157/13/LRA

June 20, 2014

**DISCRETIONARY CERTIFICATION** - After Union filed Application for Certification, employees were compelled to attend three meetings over course of six days and were subjected to company president's opinions regarding Union, to merits of unionization, and to subtle threats - Board found tone at meetings was hostile, angry and aggressive - Board satisfied probable effect of president's comments would be to thwart employees' free expression of their wishes regarding union representation and those comments constituted interference by Employer with formation and selection of union and representation by union contrary to subsection 6(1) of *The Labour Relations Act* and did not fall within exceptions set forth in subsection 6(3) - Board did not agree that president's impugned statements were permitted by subsection 32(1), Freedom of speech, as they were clearly intimidating, threatening and designed to interfere with formation of union - Board considered that when an employee spoke at third captive audience meeting and indicated he had changed his mind about union and encouraged others to similarly reconsider, Employer failed to distance itself from those comments and president thanked dissenting employee, conduct that also violated subsection 6(1) of the *Act* - Board determined that necessary elements for it to exercise its authority to issue discretionary certification had been satisfied pursuant to section 41 of the *Act* - Substantive Order.

**REMEDY - DISCRETIONARY CERTIFICATION** - Board ruled Employer committed an unfair labour practice by interfering with formation of union - As part of remedy, Board ordered discretionary certification pursuant to section 41 of *The Labour Relations Act* to issue; ordered Employer to pay \$2,000 to Union; ordered Employer to pay \$250 to each employee included in bargaining unit described in discretionary certificate and who was employed during week captive meetings held - Substantive Order.

**Dimatec INC. - and - D.K., President of The Dimatec Inc. Employees Association - and - A.G.**

Case No. 146/14/LRA

July 4, 2014

**DUTY OF FAIR REPRESENTATION - TIMELINESS** - Undue Delay - Board has interpreted undue delay to mean periods as little as six months - Employee failed to assert any material facts which would provide reasonable explanation for failure to file Application for more than twelve months since Union declined to file grievance on Employee's behalf of the Employee - Application dismissed - Substantive Order.

**DUTY OF FAIR REPRESENTATION** - Employee applied for promotion but did not receive interview - Successful individual removed from position after training period and Union filed grievance protesting removal (“the removal grievance”) - Employee filed complaint that removal grievance prevented Employer from re-posting position and that Union failed to file grievance on his behalf when he was not interviewed and Union showed favouritism in filing removal grievance six months later - Board held not open to Employee to advance complaint under Section 20(b) of *The Labour Relations Act* about actions of Union in filing grievance on behalf of another member - Section 20 does not apply to employers and Employer failing to re-post position not relevant to Application - Employee did not establish *prima facie* violation of Section 20(b) - Application dismissed - Substantive Order.

**City of Winnipeg, Winnipeg Fleet Management - and - Canadian Union of Public Employees, Local 500 - and - E.P., J.S., D.D., A.L.**

Case No. 127/13/LRA

July 18, 2014

**DUTY OF FAIR REPRESENTATION** - Arbitrary Conduct - Failure to Process Grievance - Employees claimed Union violated duty of fair representation through its handling of Employees’ transfer from Water and Waste Department to Fleet Management Agency and their placement at bottom of Fleet Management Agency’s seniority list, and their grievance with respect to the issue - Board found Union did not conduct any meaningful investigation into merits or facts and circumstances of Employees’ case; Union refused or failed to consider or investigate Employees’ proposal that their seniority be “dovetailed”; Union relied on assumptions as to impact their proposal would have on other members and how they would react, without investigating or making any inquiries - Board also found Employees were not given opportunity to appear and present their case to Union and were not advised of any right of appeal - Leading up to and after transfer, on-site union representative could not get clear answers from Union as to what was to happen with Employees’ seniority - Held Union committed unfair labour practice and was ordered to forward grievance regarding seniority rights to Employer and to engage, at its cost, lawyer experienced in labour relations in Manitoba, to be jointly selected by Union and Employees - Application granted - Substantive Order.

**Manitoba Justice, Private Investigators and Security Guards Office - and - Manitoba Government and General Employees’ Union - and - D.M.**

Case No. 157/14/LRA

July 18, 2014

**DUTY OF FAIR REPRESENTATION** - Arbitrary Conduct - Bad Faith - Employee, terminated due to disrespectful and insubordinate behaviour, filed duty of fair representation application contending, among other things, that Union’s counsel deceived her by not doing due diligence in failing to call character witnesses during arbitration hearing, and that Union representative and counsel did not employ due diligence in conduct of grievance proceeding - Board noted counsel was unable to contact some witnesses and others were unable to offer any relevant information - Board satisfied Union, its counsel and representative acted appropriately in representing Employee - Union brought four grievances on her behalf, negotiated settlements of two of those grievances and attempted to negotiate settlement of other two, and prepared and represented her at arbitration hearing with other two grievances - Application dismissed - Substantive Order.

**Instabox Winnipeg Ltd. - and - United Food and Commercial Workers Union, Local 832**

Case No. 25/14/LRA

July 24, 2014

**UNION** - Employees Association - Status - Constitution - Board determines whether written constitution required for Employees Association to be defined as union under *The Labour Relations Act* - By Rule 7(1)(c) of *Manitoba Labour Board Rules of Procedure*, requirement for filing written constitution is substantive requirement which must be fulfilled before an organization will be determined to be a union for certain purposes under the *Act* - In the proceedings, no constitution was produced and entered into

evidence because whatever written document may have once existed was lost many years before - Lack of formal written document makes it difficult to prove whether objects and purposes of Association include "regulation of relations between employers and employees" as definition of "union" in the *Act* required - Board unable to conclude that Employee Association was union within meaning of and for purposes of the *Act*, given Association unable to fulfill requirements of Rule 7(1)(c) - Substantive Order.

**CERTIFICATION** - Bar - Collective Agreement - Employer opposed Union's application for certification submitting application untimely pursuant to subsection 35(2)(e) of *The Labour Relations Act* because collective agreement between Employer and Association in effect at time Application made - Determinative issue was whether or not Association had a constitution and whether or not it acted in accordance with constitution so as to be defined as union under the *Act* - Held due to lack of written constitution, Board could not determine whether objects and purposes of Association include "regulation of relations between employers and employees" as definition of union in the *Act* required - Board could not infer purpose of Association was regulation of labour relations on basis Employer recognized Association as bargaining agent and entered into successive collective agreements because informal employee organizations, which are not unions within the meaning of and for the purposes of the *Act*, are able to discuss and agree upon terms and conditions of employment which bind individual employees or groups of employees - Another important factor indicating that objects and purposes of Association may not relate to regulation of labour relations was that Association's funds were primarily expended on social or benevolent activities, not labour relations purposes - Board concluded Association was not a union or bargaining agent within meaning of the *Act* when it entered into collective agreement and restrictions outlined in subsection 35(2) of the *Act* did not apply - Union's application for certification timely - Certification granted - Substantive Order.

**Capitol Steel Corporation - and - International Association of Bridge, Structural, Ornamental and Reinforcing Ironworkers, Loca1 Union 728**

Case No. 37/14/LRA

July 25, 2014

**CERTIFICATION** - Voluntary Recognition - Bar - Collective Agreement - Time - Employer objected to Union's Application for certification submitting Voluntary Recognition Agreement and Collective Agreement in place between Employer and Union - While Letters of Understanding entered into by Employer and Union were collective agreements within meaning of *The Labour Relations Act*, arrived at through voluntary recognition, there was no statutory limitation prohibiting same union which is party to voluntary collective agreement from applying for certification at any time for same or substantially same unit of employees of that employer - As neither Union nor any other union was certified at time Application filed, subsection 35(1) of the *Act* not applicable - "Open" periods defined in subsection 35(2) of the *Act* only apply when "another" union wished to apply for certification - To find otherwise would be to ignore the word "another" and render it redundant - Subsection 35(3) of the *Act* did not apply and that provision stated bargaining agent which was party to collective agreement was not bound by time limitations contained therein - Certification issued - Substantive Order.

**CERTIFICATION** - Estoppel - Employer objected to Union's Application for certification submitting doctrine of estoppel applied as ground for dismissing Application - Board held law is well established that estoppel cannot be relied upon to prevent exercise of statutory right - Certification issued - Substantive Order.

**R. J. Millwork Company Ltd. and C.W., Prod. Mgr. - and - R.B.**

Case No. 196/14/LRA

July 30, 2014

**UNFAIR LABOUR PRACTICE** - Discharge - Exercising Legislative Right - Employee filed Unfair Labour Practice Application submitting Employer violated section 7 of *The Labour Relations Act* when, after he sustained workplace injury, Employer informed him that he was terminated, which was later rescinded, and then offered him work in lower paying position - Board held Application did not allege Employer took actions against Employee because he engaged in one or more of enumerated activities referred to in

subsections 7(a) to (h) of the *Act* - Employee failed to establish *prima facie* violation of section 7 - In addition, Board satisfied Employer's actions were taken as a result of Employee's unauthorized absence from workplace and not for any reason prohibited by Section 7 of *Act* - Application dismissed - Substantive Order.

**Allen & Bolack Excavating Ltd. - and - International Union of Operating Engineers, Local 987**

Case No. 215/14/LRA

September 4, 2014

**UNFAIR LABOUR PRACTICE - Union Solicitation** - Employer requested Board review and rescind certificate asserting Union, by intimidation, fraud or coercion sought to compel or induce employees to become members of Union contrary to Section 19 of *The Labour Relations Act* and Union engaged in organizing activities on Employer's worksite during working hours contrary to Section 33(2) of the *Act* - Employer submitted representative of Union attended worksites during working hours and spoke with employees; called an employee at his home and discussed Union matters; and contacted an employee via telephone during working hours - Board satisfied even if bare facts are accepted as true, they did not constitute valid ground to rescind Certificate - Board noted Employer pled representative was asked to leave worksites before Employer was given notice of filing of application for certification - In Board's view, evidence was known and available prior to filing of application for certification and, therefore, did not constitute new evidence within the meaning of Sections 17(1)(a) and (b) of the *Manitoba Labour Board Rules of Procedure* - Section 33(2) not blanket prohibition of organizing activities on worksite because focus of that provision was on "disruption of the ongoing operation" - None of conduct raised regarding Section 33(2) of the *Act* or contacting of employees would sustain finding of intimidation, fraud or coercion within meaning of Section 19 of the *Act* - Application dismissed - Substantive Order.

**CERTIFICATION - Membership - Cards** - Employer requested Board review and rescind certificate - Employer alleged, following issuance of Certificate, employees raised concerns that they did not sign membership cards and that they felt their signatures may have been falsified - Board noted membership cards were never submitted for those employees and Union never claimed them as members - Membership evidence was reviewed by Board in accordance with its standard procedures which included specimen signatures - General allegation that some unidentified employees "feel their signature may have been falsified" was not, standing alone, valid ground for Board to rescind certification, particularly in circumstances where no employee ever filed objections - Application dismissed - Substantive Order.

**EllisDon Corporation - and - International Union of Operating Engineers, Local 987**

Case No. 247/14/LRA

September 15, 2014

**APPLICATION FOR CERTIFICATION – RULE 28 – Construction Industry** - Union filed Application for Certification for craft unit of all crane operators and crane apprentices – Employer submitted application be dismissed based on application of Rule 28 of the *Manitoba Labour Board Rules of Procedure* – Board determined Rule 28 had never been applicable in construction industry - Short-term employment is the norm in construction industry and therefore casual employees are not an issue in that sector in Manitoba – Application for Certification granted - Substantive Order.

**Catrysse Veterinary Services - and - R.P.**

Case No. 232/14/LRA

September 26, 2014

**EXCLUSIONS – WAGES - Professionals – Overtime** - Employee filed unfair labour practice application claiming her employment was terminated contrary to section 7 of *The Labour Relations Act* and subsection 133(1) of *The Employment Standards Code* because she worked overtime and asked Employer for overtime wages – Board determined Employee did not claim to have requested information or advice from an officer as contemplated in subsection 133(1)(c) of the *Code* – Further, Employee was veterinarian and practice of veterinary medicine was governed under an act of Legislature that applied

solely to profession - Provisions of the *Code* relating to overtime do not apply to employee who is employed in profession governed under an act of the Legislature - Employee not entitled to overtime under the *Code* - Therefore, she was not exercising right under an act - Employee failed to establish *prima facie* violation of Section 7(h) of the *Act* or 133(1)(c) of the *Code* - Application dismissed - Substantive Order.

**Community Therapy Services Inc. - and - Manitoba Association of Health Care Professionals - and - D.C.**

Case No. 184/11/LRA  
October 14, 2014

**EVIDENCE** – Failure to call evidence – Employee submitted Board ought to draw “adverse inference” that Union did not call evidence at hearing – Board noted principle is not absolute and did not displace onus of proof which fell on Employee – Union’s position was that Employee’s evidence did not reveal arbitrary or discriminatory conduct within meaning of Section 20(b) of *The Labour Relations Act* and, bearing in mind onus of proof, there was nothing to rebut - Substantive Order.

**DUTY OF FAIR REPRESENTATION** – Arbitrary Conduct – Discrimination - Applicant filed Section 20 application alleging Union acted in arbitrary or discriminatory manner in representing his interests in respect of two grievances – Board determined while there were some delays and remarks made by union representative and counsel which, in hindsight, could be viewed as unfortunate or regrettable, objective evidence is that Union remained ready, willing and able to pursue grievances and/or attempt to resolve them with Employer - While some arbitration dates for hearing of first grievance had been adjourned from time to time, when Application was filed in June 2011, hearing date had been set for September 23, 2011 before an arbitrator but that proceeding was adjourned due to filing of Application itself - Further, Union, during 2010, had agreed to settle first grievance but settlement was never consummated based on Employee’s request to include new items within proposed settlement - Applicant failed to establish Union or persons identified in Application as acting on its behalf, acted in an arbitrary or discriminatory manner - Application dismissed - Substantive Order.

**Community Therapy Services Inc. - and - Manitoba Association of Health Care Professionals - and - D.C.**

Case No. 204/14/LRA  
October 27, 2014

**UNFAIR LABOUR PRACTICE – TIMELINESS** – *Prima facie* - Employee filed Unfair Labour Practice Application alleging Employer contravened section 7 of *The Labour Relations Act* by retaliating against him for reporting abuse, terminating his employment without cause, and preventing new employment by providing bad references - With exception of allegations regarding unwarranted bad references, Employee delayed in excess of one year from date of most recent allegation to when he filed Application - Board satisfied Employee failed to advance his complaint in timely manner and dismissed allegations as they occurred more than six months prior to filing of Application - With respect to allegation of bad references, Employee had not specified time when actions or omissions complained of occurred and name of person or persons who allegedly engaged in or committed them - Board has consistently held that, when assessing whether *prima facie* case exists there must be more than bare allegation or assertion – Application dismissed - Substantive Order.

**Community Therapy Services Inc. - and - Manitoba Association of Health Care Professionals - and - D.C.**

Case No. 205/14/LRA  
October 27, 2014

**TIMELINESS** - Employee filed Unfair Labour Practice Application alleging Union contravened sections 8 and 20 of *The Labour Relations Act* - Employee’s allegations concerned matters relating to arbitration of grievance – Board determined Employee delayed in excess of nine months from time he says Union

violated the *Act* with respect to its representation prior to and during arbitration hearing to when he filed Application - Board satisfied Employee failed to advance his complaint in timely manner as allegations occurred more than six months prior to filing of Application - Application dismissed - Substantive Order.

**UNFAIR LABOUR PRACTICE** – *Prima facie* - Employee filed Unfair Labour Practice Application alleging Union contravened sections 8 and 20 of *The Labour Relations Act* - Employee alleged that although Union filed for judicial review of arbitration award, it had subsequently delayed in making decision regarding whether to proceed with case - Employee concluded Union's delay indicated it had no intention of following through with judicial review – Board noted that extent to which section 20 of the *Act* may encompass an obligation to proceed with judicial review had been carefully reviewed in previous decisions by the Board - In very limited circumstances, a bargaining agent may be obligated to seek judicial review in order to comply with duty of fair representation - As Union had not yet made its decision whether or not to proceed with judicial review, allegation that Union had violated the *Act* by not proceeding with judicial review was premature - Application dismissed - Substantive Order.

**Berger Peat Moss - and - P.G.**

Case No. 269/14/LRA

October 31, 2014

**UNFAIR LABOUR PRACTICE** - *Prima facie* Applicant filed an Unfair Labour Practice application alleging Employer contravened subsection 7(h) of *The Labour Relations Act* and subsection 133(1) of *The Employment Standards Code* – Board determined that Application did not allege Employer refused employment or continued employment, discharged, or discriminated against Employee in regard to his employment - Employee indicated he no longer wished to work overtime and Employer responded by providing him with two options in attempt to accommodate his wishes in that regard - Board not satisfied Application disclosed *prima facie* violation of section 7 of the *Act* or subsection 133(1) of the *Code* as alleged or at all – Application dismissed - Substantive Order.

**Community Therapy Services Inc. - and - Manitoba Association of Health Care Professionals - and - D.C.**

Case No. 284/14/LRA

December 4, 2014

**PRACTICE AND PROCEDURE** - Decision - Employee filed Review Application requesting Board provide reasons for its decision - Board denied request for reasons, being satisfied dismissal order adequately summarized rationale underlying Board's disposition of case - Fact that hearing was lengthy and took place over substantial period of time was not sufficient to justify request for more detailed reasons beyond those contained in dismissal order - Substantive Order.

**REVIEW AND RECONSIDERATION** - Employee filed an application requesting Board reviewed dismissal of his Section 20 application asserting there had been errors in both procedure and in judgment - He relied on “new evidence” as revealed in a second Section 20 application which he asserted corroborated concerns raised at hearing on initial Application - Board determined filing of different Section 20 Application involving unrelated dispute which arose subsequent to completion of hearing in original case did not constitute “new evidence” within meaning of *Rule 17(1)* of the *Manitoba Labour Board Rules of Procedure* which contemplated that relevant evidence was otherwise available at time of initial hearing, but was not submitted to Board at that time for good and sufficient reason - Review Application did not raise sufficient or any cause why Board should review or reconsider its original decision, either on a principle of law or on a matter of policy.

**City of Winnipeg, Winnipeg Fleet Management - and - Canadian Union of Public Employees, Local 500 - and - E.P., J.S., D.D., A.L.**

Case No. 127/13/LRA

December 5, 2014

**DUTY OF FAIR REPRESENTATION** - Arbitrary Conduct - Failure to Process Grievance - Employees claimed Union violated duty of fair representation through its handling of Employees' transfer from Water and Waste Department to Fleet Management Agency and their placement at bottom of Fleet Management Agency's seniority list - Board found Union did not conduct any meaningful investigation into merits or facts and circumstances of Employees' case - Union relied on assumptions as to impact their proposal would have on other members and how they would react, without investigating or making any inquiries - Employees were not given opportunity to present their case to Union and were not advised of right of appeal - Respondent relied on past practice as justification for its conduct - Board noted that past practice evidence vague and lacking in detail - Employees were left on own to initiate and file grievance - Respondent failed to communicate with Employees who were unable to find out what was happening to Grievance until shortly before they Section 20 Application - Ruled Union committed unfair labour practice and was ordered to forward grievance - Application granted.

**University of Manitoba - and - The University of Manitoba Faculty Association - and - M.L.**

Case No. 211/09/LRA

March 13, 2015

**PRACTICE AND PROCEDURE** - Removal of Counsel - Employee filed Section 20 Application after his case had been taken to arbitration and award issued - He filed preliminary motion to have Union's counsel and law firm removed as counsel for Union - Employee submitted he was involved with or associated with Union in arbitration and Union's counsel was in sufficiently proximate relationship so as to owe duty to him; Section 20 Application was "related" matter connected to arbitration and resulting award; and, duty was owed to a "non-client" - Board determined Employee not client of counsel - While Application could be viewed, from common sense factual perspective, as "related" matter, when an employee brings Section 20 application against his/her bargaining agent and/or persons acting on its behalf, protective confidentiality umbrella under "common interest" doctrine no longer applied - Employee's evidence given at arbitration hearing was now public knowledge and not confidential information - Whatever confidentiality or extension of UMFA's solicitor-client privilege existed under "common interest" doctrine was now gone - Board not satisfied any "confidential" information which Employee may have relayed to counsel during arbitration process could be relevant to legal question raised in Application - Employee's motion dismissed.

**Manitoba Liquor & Lotteries - and - Unifor, Local 144 - and - L.F.**

Case No. 11/15/LRA

March 17, 2015

**DUTY OF FAIR REPRESENTATION** - *Prima facie* - Employee, employed as full-time cashier, was disciplined on several occasions for having cash variances - Employer proposed re-assignment into full-time industrial housekeeping attendant position - After Employee declined proposed solution, her employment was terminated for cause - Union filed grievance to dispute termination and also proposed matter proceed through mediation which resulted in offer of reinstatement as casual housekeeping attendant - Employee declined offer and filed Section 20 Application - Board determined Union could not be held at fault for nature of alternative employment offers although Employee attempted to hold Union responsible - Negotiations to find Employee alternative job were extensive and appropriate - Concerning standard of care, Union provided assistance without delay by launching grievance and considered circumstances of dismissal in making its decision to enter to mediation process - Settlement reached seemed reasonable - Union decision to withdraw grievance well thought out and reasonable given progressive discipline which proceeded termination - Employee had not taken into account internal appeal processes which Union explained to her - Employee's complaint was nature of afterthought and without consideration of requirements to be met to bring matter within Section 20 of the *Labour Relations Act* - Application dismissed - Substantive Order.

## **Under The Employment Standards Code**

### **Arctic Buying Company Inc. - and - M.M.**

Case No. 298/13/ESC

May 20, 2014

**WAGES - Overtime Hours – Record Keeping –** Employer filed appeal on basis that Employment Standards Officer's calculations of wages owing were inconsistent with payroll records and were based upon inflated and/or factually incorrect calculations of hours worked as provided by Employee – Starting October 12, 2012, Employee's co-worker recorded hours allegedly worked in a journal and also listed hours she had allegedly worked prior to that date based on memory - Employee relied on co-worker's journal as record of hours she also allegedly worked – For period recorded from co-worker's memory, Board not satisfied that journal provided sufficiently accurate or reliable record of hours worked by Employee and adjusted hours worked, and Board was not satisfied Employee worked any overtime hours - For period beginning October 12<sup>th</sup>, Board was not satisfied, on balance of probabilities, that Employee worked or was authorized to work more than eight hours on any weekday - Board accepted Employee usually waited to drive home with co-worker, but was not convinced that evidence established she was working while she was waiting or that she was authorized by Employer to work any overtime hours on those days - Employer's appeal allowed in part – Substantive Order.

### **Pratt McGarry Inc. - and – D.G.**

Case No. 93/13/ESC

May 21, 2014

**MATERNITY LEAVE – Failure to Reinstate -** First instance in which Board interpreted provisions of section 60 of *The Employment Standards Code* concerning reinstatement of employee following maternity leave - Employee terminated prior to conclusion of her maternity/parental leave – Employer advised it had undergone restructuring and Call Centre Administrator (CCA) position that Employee held prior to commencing her maternity leave had been eliminated – Following day, Employer ran advertisement seeking to fill Property Manager Assistant (PMA) position duties of which were comparable to those Employee had performed - Board concluded Employer failed to prove there was financial exigency requiring elimination of Employee's position; Employee's position did not actually disappear in so far as duties associated with it continued to be performed by others; but for her pregnancy and her taking leave, Employee would have continued to perform her duties and her employment would not have been terminated; the CCA was "comparable position" to PMA as that term employed in subsection 60(2) of the *Code*; and Employee was able to discharge duties of PMA and allegations regarding her character, professionalism, communication skills, customer service abilities and reliability were unfounded and did not render her incapable of being PMA - Board concluded Employer violated section 60 of the *Code*.

### **Autotown Sales Corporation - and - A.C.**

Case No. 41/14/ESC

May 27, 2014

**WAGES - DISCHARGE - Commission - Entitlement -** Employee appealed dismissal order of Employment Standards Division claiming he had not been paid commissions owing with respect to sale of three automobiles - Employer denied commissions were payable because Employee failed to complete all aspects of "sales process" for transactions - Board found for first transaction Employee did not negotiate final terms of sales contract and another sales representative performed delivery of vehicle; for second transaction Employee negotiated transaction on basis vehicle had satellite radio, when in fact it did not, and Employer provided radio at its cost - Therefore, for these transactions Employee failed to prove he had done all things necessary to earn commissions - However, for third transaction, Board found Employee made sales presentation and negotiated terms of sale but prior to delivery of vehicle Employee's employment was terminated on basis of alleged wrongdoing - Vehicle was damaged while being transported to dealership and Sales Manager located alternate vehicle for customer - Board concluded Employee was ready to complete sales process, but was prevented from completing delivery

by factors beyond his control being damage to vehicle or termination of employment - Termination may or may not have been justified but issue of dismissal for "cause" not issue which could be properly determined in Board proceedings - In absence of formal written agreement explicitly outlining obligations which employee must fulfill before earning commission, Board determined Employee's claim for commission wages relating to the first two transactions dismissed but allowed commission, general holiday and vacation wages for third transaction - Appeal allowed in part - Substantive Order.

**React Mobile Sign Rentals Inc. - and - L.R.T.**

Case No. 179/14/ESC

July 25, 2014

**JUST CAUSE** - Insubordination - Employer appealed Order to pay wages in lieu of notice on basis it had "just cause" to terminate Employee's employment without notice - Board noted insubordination and/or insolence can be just cause for termination of employment - Genesis of events in question was comments manager made to Employee which inflamed situation such that Employee's initial reaction understandable - However, after cooling off period Employee raised his voice at owner and expressed himself in sufficiently angry manner that owner felt threatened - After returning from medical level two weeks later, at meeting to discuss earlier events, Employee swore, raised his voice and mimicked the owner when she pointed out to him how angry he was getting - Board concluded confrontations with owner by Employee were insubordinate and insolent and together demonstrate pattern of unacceptable conduct in workplace - Board determined Employer had just cause to terminate Employee within meaning of subsection 62(1)(h) of *The Employment Standards Code* - Appeal allowed - Substantive Order.

**Custom Truck Sales Inc. - and - P.P.**

Case No. 348/12/ESC

August 1, 2014

**NOTICE - DISCHARGE** - Wilful misconduct - Employee appealed Dismissal Order on basis he did not act in manner that constituted misconduct or was violent or otherwise fell within exceptions to notice in Section 62(1)(h)(i) or (ii) of *The Employment Standards Code* and was entitled to wages in lieu of notice - Board not satisfied Employee's behaviour on day in question constituted wilful misconduct or was violent - He was confronted in his own office by co-worker, who was pushing him to deal with a conflict that differed from how conflicts between employees had been dealt with in past - Also Employee's repeated requests that co-worker leave his office were ignored - Board did not agree that previous warning which Employee received provided insight into his state of mind or indicated that his behaviour was "wilful" or "deliberate" - Employer also relied on Employee's use of swearing, but swearing was tolerated and common in workplace - Board not persuaded that co-worker was physically threatened or felt threatened by Employee, or that Employee was violent - Board found Employer not exempt from notice requirements under section 61 of the *Code* - Appeal allowed - Substantive Order.

**DISCHARGE - WAGES** - Commission wages - Employee asserted following termination of his employment, he was paid only 50% of commissions which were owing to him - Employer asserted it was policy or past practice, when an employee quit or was terminated, of dividing commissions on outstanding orders between person who obtained order and person who finished it - Board satisfied that Employee had established that he was entitled to be paid full amount of outstanding commissions - Employee made those sales or they were ultimately completed - Also, Board was not satisfied evidence established existence or implementation of alleged policy or practice that Employer relied upon or that any such policy or practice had been communicated to Employee or formed part of terms of his employment - Appeal allowed - Substantive Order.

**Rinkside Restaurant and Bar Ltd. - and - C.T.**

Case No. 283/09/ESC

September 18, 2014

**WAGES** - Overtime - Record of Hours Worked - Employee appealed Dismissal Order for unpaid overtime - Board noted claim was for fixed total of 232 hours, worked over a six-month period and Employee never raised issue of overtime with Employer until after employment relationship terminated - Many of hours claimed were for tasks done at home for which Employer never gave authorization - Documentation submitted in support of Employee's claim contained errors and discrepancies and included hours during which he was not performing duties on behalf of Employer which raised questions regarding reliability of hours claimed - Except for 25 hours of overtime Employer admitted Employee worked, Employee had not met onus to establish that remaining balance of hours claimed were either accurate or reflected time actually worked - Appeal allowed to extent of 25 hours of overtime - Substantive Order.

**D.J. - and - K.C.**

Case No. 213/13/ESC

October 1, 2014

**INDEPENDENT CONTRACTOR** - K.C. appealed Dismissal Order which dismissed his claim for wages because an employer employee relationship did not exist and, as specified under subsection 2(3) of *The Employment Standards Code*, the *Code* did not apply to an independent contractor - Board satisfied relationship between K.C., a Red Seal painter and decorator, and D.J., his friend for whom K.C. was renovating mobile home (trailer), properly characterized as that of independent contractor - K.C. had control over when and how he performed work on trailer - To extent that he drove to and from trailer with D.J. and "accommodated" D.J.'s needs and schedule, Board satisfied K.C. was acting by choice, and not because he was directed or required to do so - He performed specific tasks almost exclusively on his own and when he did work with D.J., he was not working under D.J.'s control or supervision, but rather with him - K.C. used his own equipment or tools in carrying out his work - He had opportunity of profiting from work he was performing, given that he was looking to start business with D.J. to renovate trailers and he had vested interest in seeing that work on D.J.'s trailer was properly completed - K.C. had opportunity to bid on and to accept other work - Appeal dismissed - Substantive Order.

**C.N. t/a Soda Landscaping - and - R.P.**

Case No. 222/14/ESC

November 18, 2014

**EMPLOYEE** - Alleged Employee (Employee) operated his sister's snow clearing business - After Owner gave Employee notice, he filed claim seeking payment of unpaid regular wages, overtime wages, vacation pay and general holiday wages, owing to him upon termination of his "employment" - Employment Standards Officer dismissed his claim because employer/employee relationship had not been established - Employee appealed decision - Board determined Employee virtually had complete control over when and how he would do snow clearing work - In addition, for several years prior to termination of his relationship with Owner, he also had effective control over all of most important operational activities of business - Employee essentially ran business, without significant interference or direction from Owner - Employee was not an employee and therefore was not entitled to receive wages, overtime wages, vacation wages or general holiday wages - Claim and appeal dismissed as evidence established that Employee had more attributes of an "employer" than an "employee" - Substantive Order.

**WAGES** - Record Keeping - Alleged Employee (Employee) operated his sister's snow clearing business - After Owner gave Employee notice, he filed claim seeking payment of unpaid regular wages, overtime wages, vacation pay and general holiday wages, owing to him upon termination of his "employment" - Employee failed to prove he was entitled to unpaid regular wages, overtime wages, vacation pay, or general holiday pay - Not only was his claim based on estimates, without any records or documents, but his estimates were derived from his memory and some climate data - He introduced very little evidence with respect to monies he had withdrawn from company bank account or had otherwise received from business - Board did not know what amounts he received from business and as a result, there was insufficient evidentiary foundation to perform calculation of any purported entitlement - Substantive Order.

**Roma Ribs Limited - and - M.O.**

Case No. 193/14/ESC

December 12, 2014

**JUST CAUSE** - Employer appealed Order to pay six weeks' wages in lieu of notice on basis that it had "just cause" to terminate Employee's employment without notice or wages in lieu of notice in accordance with section 62(1)(h) of *The Employment Standards Code* – Employer asserted Employee was in violation of its policy prohibiting use and/or possession of illegal drugs on company premises - Board accepted evidence of general manager that Employee was in possession of illegal drug on Employer's premises in violation of its policy on day in question - Employee's lack of forthrightness with Board and failure to demonstrably appreciate that her conduct placed reputation of Employer in jeopardy, in combination with that conduct, met standard of just cause - Employer's appeal allowed - Substantive Order.

**Medds Winnipeg – A Medical Delivery Service Corporation - and - D.T.**

Case No. 195/14/ESC

December 19, 2014

**EMPLOYEE** - Prescription Courier Business - Employer contracted with alleged Employee to deliver prescriptions for pharmacies - Employer appealed Order to pay wages to Employee on basis that he was independent contractor - Board determined Employer had the customers, set rates, dealt with all accounting issues, and gave out work through its scheduling of drivers in specific areas - Board recognize that Employee had some independence, however, despite degree of flexibility, extent of control by Employer was sufficient to move Employee beyond status of independent contractor to employee - Other factors considered were: Employee provided vehicle, but Employer determined no markings on vehicle, that Employee need not wear uniform, and types of documents worked with; Employee hired helper, but he sought approval of Employer and was provided with name of someone to consider hiring; Employee not involved in putting forth financial risk; while Employee had some degree of flexibility and freedom of decision making on daily basis, large degree of management was with Employer's central office; and, Employee could only contemplate extra work when his regular work day was concluded - Board satisfied employee/employer relationship existed - Appeal denied.

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

**Above All Roofing & Renovations Inc. - and - Director, Workplace Safety and Health**

Case No. 29/14/WSH

May 9, 2014

**ADMINISTRATIVE PENALTY** - Improvement Order issued to Appellant for not providing and/or implementing acceptable fall protection systems at job site and Re-Inspection Report issued days later indicated Appellant complied with Improvement Order - Ten days later, Stop Work Order and Improvement Order issued for second job site - Administrative Penalty issued for non-compliance of first Improvement Order - Appellant argued Administrative Penalty invalid and unenforceable because it had complied with first Improvement Order and safety infractions were committed by two different crews on two different job sites - Held contraventions observed on second job site were breach of "ongoing" obligations of first Improvement Order - Although Appellant was allowed to resume work on first job site, Improvement Order had not been rescinded and Appellant was under continuing obligation to comply with the safety requirements applicable to fall protection systems on all job sites - Appeal denied - Substantive Order.

**ADMINISTRATIVE PENALTY** - Individual employees' non-compliance - Administrative Penalty issued to Appellant for non-compliance of Improvement Order for not providing and/or implementing acceptable fall protection systems - Appellant argued it had done as much as it could to operate safely but it was not possible to attain perfection in complying with safety standards in roofing industry - Board noted Safety and Health Officers authorized to issue orders against a "person", which by *The Interpretation Act*, includes corporations - Improvement orders commonly issued to employers rather than to employees -

Board determined neither Appellant's commendable efforts and accomplishments with respect to safety generally, nor failure of individual employees to observe applicable safety requirements, provide basis for overturning Administrative Penalty - Substantive Order.

**ADMINISTRATIVE PENALTY - DELAY** - Time limit to issue - Appellant argued Administrative Penalty issued four months after Improvement Order was issued should be found invalid and unenforceable because of unfair and unreasonable delay - Neither *The Workplace Safety and Health Act* nor regulation specify time period within which Administrative Penalty must be issued - Interval between expiration of appeal period of Improvement Order and Notice of Administrative Penalty being sent was between four and five months - Board, in other contexts, has used six months as measure of reasonable time period - Board concluded four month period for issuance of Administrative Penalty, while not ideal, was not so long as to justify overturning Administrative Penalty - Substantive Order.

**ADMINISTRATIVE PENALTY - PRACTICE AND PROCEDURE** - Administrative Penalty issued to Appellant for non-compliance of Improvement Order for not providing and/or implementing acceptable fall protection systems - Appellant, based on admission of Safety and Health Officers that they had no involvement in issuance of Administrative Penalty, argued Officers did not provide evidence of non-compliance to deputy minister as required by subsection 53.1(1) of *The Workplace Safety and Health Act* and, therefore, deputy minister had no basis for issuing Administrative Penalty - Board determined deputy minister had access to documents and information which included evidence from Officers with respect to contraventions - Board concluded Administrative Penalty issued in accordance with subsection 53.1(1) - Substantive Order.

**ADMINISTRATIVE PENALTY - PRACTICE AND PROCEDURE** - Criteria applied when deciding to issue Administrative Penalty - Administrative Penalty issued to Appellant for non-compliance of Improvement Order for not providing and/or implementing acceptable fall protection systems - Appellant argued unfair and unreasonable to issue administrative penalties without clear criteria for doing so and any such criteria should be made known to industry - Board held *The Workplace Safety and Health Act* expressly authorized issuance of administrative penalty solely on basis of failure to comply with improvement order without any requirement that other criteria be fulfilled which was the case with Appellant - Substantive Order.

#### **ACE SIGNS & SERVICE LTD. - and - Director, Workplace Safety & Health**

Case No. 33/14/WSH

May 29, 2014

**ADMINISTRATIVE PENALTY - TIMELINESS** - Appellant filed appeal of Administrative Penalty twelve days after fourteen day appeal period, established by subsection 53.1(7) of *The Workplace Safety and Health Act*, expired - Board held time limit mandatory and it did not have authority to extend time limit - Board concluded Appellant's appeal not timely - Appeal dismissed - Substantive Order.

**ADMINISTRATIVE PENALTY - TIMELINESS - JURISDICTION** - Appellant filed appeal of Administrative Penalty twelve days after fourteen day appeal period - Appellant submitted Improvement Orders may have been issued without proper statutory or regulatory basis, or were "*void ab initio*" and administrative penalty could not be enforced based on void Improvement Order regardless of time limits - Board determined submission would be more appropriately made on appeal of Improvement Orders - However, Appellant did not appeal Improvement Orders and Board's jurisdiction limited to determining whether Appellant complied with improvement order and Board could only confirm or revoke administrative penalty and does not have jurisdiction to assess merits of improvement order - Substantive Order.

#### **Class A Home and Yard Services Ltd. - and - Director, Workplace Safety & Health**

Case No. 44/13/WSH

September 4, 2014

**CONTRACTOR** - Appellant appealed decision in which Director found Appellant was an "employer" as defined in *The Workplace Safety and Health Act* - Parties agreed Appellant met definition of "contractor"

in section 1 of the *Act* - Board determined Director erred in concluding definition of “employer” included all “contractors” under the legislation on basis of case law from Ontario - Director erred in concluding combined effect of definitions of “employer” and “worker” suggested that an “employer” was not only responsible for workers whom he directly engaged, but expanded common law to include those workers who were engaged by another person – Appeal allowed - Substantive Order.

**Magna Electric Corporation - and - Director, Workplace Safety & Health - and - D.M.**

Case No. 335/12/WSH

September 10, 2014

**DISCRIMINATORY ACTION** - Employee appealed decision dismissing discriminatory action complaint – Board found Employee gave information about workplace conditions affecting safety, health or welfare of any worker to Employer on number of occasions and, as such, he acted in manner contemplated by subsection 42(1)(d)(i) of *The Workplace Safety and Health Act* – Onus shifted to Employer to establish discriminatory action not influenced by Employee’s conduct described in section 42 – Employer’s witnesses stated Employee was terminated because his work performance was not acceptable and he was repeatedly argumentative and uncooperative with co-workers and supervisors - Witness called by Employee, who supervised him at one point, noted Employee was fourth level apprentice, however, his performance reflected someone with only second or third level experience – Witness also noted Employee had been disruptive by interrupting presenter and speaking out of turn during work presentation – He confirmed he had never witnessed discrimination by Employer on basis of raising health and safety concerns - Board satisfied Employer’s decision to terminate Employee not influenced by fact that he had conducted himself in manner described in section 42 of the *Act* – Appeal dismissed – Substantive Order.

**Downtown Winnipeg Biz - and - E.M. - and - Director, Workplace Safety & Health**

Case No. 147/14/WSH

September 11, 2014

**DISCRIMINATORY ACTION - MOOTNESS** – Employee appealed Decision dismissing discriminatory action complaint – Board determined Appeal did not challenge Employee’s termination nor did it challenge Officer’s conclusion that termination was for reasons other than those protected under section 42(1) of *The Workplace Safety and Health Act* - As employment relationship ended months before hearing, Board found, at time of hearing, no live controversy existed - Any decision Board may have issued regarding “initial” complaint regarding concerns which predated termination would have no practical effect on rights of parties - Issue which Board was being asked to decide was “moot” and criteria for exercising discretion to hear “moot” case did not exist in factual circumstances – Appeal dismissed - Substantive Order.

**Evangel Chapel - and - Director, Workplace Safety & Health - and - D.F.**

Case No. 103/14/WSH

December 23, 2014

**DISCRIMINATORY ACTION - Volunteers** - Employee submitted Employer’s decision to remove her from her volunteer activity of teaching Sunday school was a “discriminatory action” - Board determined term “discriminatory action” captured acts or omissions which adversely affected any term or condition of employment - Teaching Sunday school was voluntary activity distinct and separate from her employment - Any change to volunteer position not “discriminatory action” as defined in legislation.

**DISCRIMINATORY ACTION** - Employee appealed dismissal of discriminatory action complaint she filed claiming, *inter alia*, her termination was contrary to subsection 42(1) of *The Workplace Safety and Health Act* - Board determined written warning, suspension and termination imposed by Employer constituted “discriminatory action” - Board also determined Employee engaged in conduct referred to in subsection 42(1) of the *Act* when she complained to Church’s board members and Elders that she was being harassed in her employment and that the Senior Pastor breached her confidence by circulating

documentation containing personal and confidential information about her, and also when she filed complaint with Workplace Safety and Health claiming Employer did not have harassment prevention policy - Board determined Employer's decisions to issue a written warning was based on *bona fide* concerns regarding Appellant's conduct as an employee; decision to disclose personal and confidential information about Appellant while reprehensible was not influenced by fact Appellant acted in manner described in subsection 42(1) of *The Workplace Safety and Health Act*; decision to suspend and discharge Appellant was influenced, in part, by fact she gave information about workplace conditions as contemplated in clause (c)(i) of subsection 42(1) of *The Workplace Safety and Health Act* - Appeal allowed.

**Tri-Mark Roofing & Renos Inc. - and - Director, Workplace Safety & Health**

Case No. 295/14/WSH

February 23, 2015

**ADMINISTRATIVE PENALTY** - Differential Treatment - Appellant filed appeal objecting to \$2,500 administrative penalty submitting penalty was excessive and disproportionate to violation of which company was accused - Appellant believes that it was being singled out for differential treatment as opposed to its competitors - Appellant did not appeal Improvement Order or Stop Work Order - Board determined it could only confirm or revoke administrative penalty - Jurisdiction to vary an Order only vested in Board under subsection 39(6) of *The Workplace Safety and Health Act* when Improvement Order itself was appealed - Notice of Administrative Penalty issued in compliance with subsection 53.1(5) of the *Act* and it was established in accordance with the regulations - Administrative penalty confirmed - Appeal dismissed.

## **SUMMARIES OF SIGNIFICANT COURT DECISIONS**

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



**STATISTICAL TABLES**

**TABLE 1**  
**STATISTICS RELATING TO THE ADMINISTRATION OF *THE LABOUR RELATIONS ACT***  
**(April 1, 2014 – March 31, 2015)**

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	7	43	50	41	3	3	0	0	47	3
Revocation	1	6	7	4	3	0	0	0	7	0
Amended Certificate <sup>1</sup>	4	8	12	12	0	0	0	0	12	0
Unfair Labour Practice	9	34	43	1	13	17	0	1	32	11
Board Ruling	6	8	14	1	2	5	0	0	8	6
Review and Reconsideration	1	9	10	1	7	1	0	0	9	1
Successor Rights	55	16	71	62	0	0	0	0	62	9
Termination of Bargaining Rights	0	2	2	1	0	0	0	0	1	1
Changes in Work Conditions (Sec.10(1)) <sup>2</sup>	0	0	0	0	0	0	0	0	0	0
Changes in Work Conditions (Sec. 10(3)) <sup>3</sup>	1	12	13	13	0	0	0	0	13	0
Duty of Fair Representation (Sec. 20)	7	28	35	1	14	3	0	0	18	17
Speed Up Decision (Sec. 125(4))	0	1	1	1	0	0	0	0	1	0
Access Agreement (Sec. 22)	0	1	1	1	0	0	0	0	1	0
Ratification Vote Complaint (Sec. 69, 70)	0	2	2	0	0	2	0	0	2	0
Minister Requires Ratification Vote (Sec. 72.1)	0	0	0	0	0	0	0	0	0	0
Religious Objector (Sec. 76(3))	0	6	6	6	0	0	0	0	6	0
First Collective Agreement (Sec. 87(1))	0	6	6	3	0	2	0	1	6	0
Subsequent agreement (Sec. 87.1(1))	0	0	0	0	0	0	0	0	0	0
Appoint Arbitrator (Sec. 115(5))	0	7	7	5	0	2	0	0	7	0
Extension of Time Limit (Sec. 130(10.1)) <sup>4</sup>	0	4	4	4	0	0	0	0	4	0
Disclosure of Union Information (Sec. 132.1)	0	0	0	0	0	0	0	0	0	0
Referral for Expedited Arbitration <sup>5</sup>	11	72	83	-	-	-	-	-	78	5
<b>Totals</b>	<b>102</b>	<b>265</b>	<b>367</b>	<b>157</b>	<b>42</b>	<b>35</b>	<b>0</b>	<b>2</b>	<b>314</b>	<b>53</b>

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

**TABLE 2**  
**STATISTICS RELATING TO THE ADMINISTRATION OF *THE LABOUR RELATIONS ACT* RESPECTING REPRESENTATION VOTES**  
**(April 1, 2014 – March 31, 2015)**

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	12	359	9	2	1	0	2
Revocation	4	53	3	1	0	0	1
Intermingling	8	98	0	0	0	8	8
Termination of Bargaining Rights	1	1	1	0	0	0	0

**TABLE 3**  
**STATISTICS RELATING TO THE ADMINISTRATION OF *THE LABOUR RELATIONS ACT* RESPECTING REFERRALS FOR EXPEDITED ARBITRATION**  
**(April 1, 2014 – March 31, 2015)**

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			
11	72	83	11	14	27	5	2	30	78	5	

**TABLE 4**  
**STATISTICS RELATING TO THE ADMINISTRATION OF *THE EMPLOYMENT STANDARDS CODE***  
**(April 1, 2014 – March 31, 2015)**

Cases Carried Over	Number of Applications Filed	TOTAL	Orders Issued by the Board	Applications Withdrawn	Not Proceeded with by Applicant	Number of Cases Disposed of	Number of Cases Pending
14	26	40	21	9	0	30	10

**TABLE 5**  
**STATISTICS RELATING TO THE ADMINISTRATION OF *THE WORKPLACE SAFETY AND HEALTH ACT***  
**(April 1, 2014 – March 31, 2015)**

Cases Carried Over	Number of Applications Filed	TOTAL	Decisions/Orders Issued by the Board	Applications Withdrawn	Number of Cases Disposed	Number of Cases Pending
8	9	17	12	3	15	2

**TABLE 6**  
**STATISTICS RELATING TO THE ADMINISTRATION OF *THE ESSENTIAL SERVICES ACT***  
**(April 1, 2014 – March 31, 2015)**

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

**TABLE 7**  
**STATISTICS RELATING TO THE ADMINISTRATION OF *THE ELECTIONS ACT***  
**(April 1, 2014 – March 31, 2015)**

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

**TABLE 8**  
**STATISTICS RELATING TO BOARD HEARINGS**  
**(April 1, 2014 – March 31, 2015)**

During the reporting period, 114 matters were scheduled to be heard involving 120 applications. <sup>1</sup>	Scheduled Hearing dates	Actual Hearing dates that Proceeded	Percentage of Actual to Scheduled
Number of hearing dates <sup>2</sup>	230	62	27%

1 A "matter" may deal with one or more applications. For example, a matter could involve one application for unfair labour practice or a matter could involve an unfair labour practice and a related application for certification.

2 A hearing can be either a full or half day.

**TABLE 9**  
**FIRST AGREEMENT LEGISLATION REVIEW OF CASES FILED**  
**(April 1, 2014 – March 31, 2015)**

Union	Employer	Date of Application	Outcome of Application	Status as at March 31
<b><u>Pending from Previous Reporting Period</u></b>				
Nil				
<b><u>New Applications from Current Reporting Period</u></b>				
Canadian Union of Public Employees, Local 4434	St. Emile School	May 5, 2014	Withdrawn	
International Union of Operating Engineers, Local 987	Seven Oaks General Hospital (Labour Relations Secretariat)	June 9, 2014	Board imposed first collective agreement	Expiry August 10, 2015
Public Service Alliance of Canada	Centre for Aboriginal Human Resources Development (CAHRD)	June 17, 2014	Board imposed first collective agreement	Expiry August 6, 2015
Manitoba Nurses Union	Morneau Shepell	October 3, 2014	Withdrawn	
Manitoba Nurses Union	Horizons Occupational Health Solutions	November 24, 2014	Board imposed first collective agreement	Expiry January 20, 2016
United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union	Winnipeg Dodge Chrysler	January 22, 2015	Declined to take action	

**TABLE 10**  
**SUBSEQUENT AGREEMENT LEGISLATION REVIEW OF CASES FILED**  
**(April 1, 2014 – March 31, 2015)**

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				