

Manitoba Labour Board

**Annual Report
2023-2024**



Manitoba Labour Board

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

Land Acknowledgement

We recognize that Manitoba is located on the Treaty Territories and ancestral lands of the Anishinaabe, Anishinewuk, Dakota Oyate, Denesuline and Nehethowuk peoples.

We acknowledge Manitoba is located on the Homeland of the Red River Metis.

We acknowledge northern Manitoba includes lands that were and are the ancestral lands of the Inuit.

We respect the spirit and intent of Treaties and Treaty Making and remain committed to working in partnership with First Nations, Inuit and Métis people in the spirit of truth, reconciliation and collaboration.

Reconnaissance du territoire

Nous reconnaissons que le Manitoba se trouve sur les territoires visés par des traités et sur les terres ancestrales des peuples anichinabé, anishinewuk, dakota oyate, dénésuline et nehethowuk.

Nous reconnaissons que le Manitoba se situe sur le territoire des Métis de la rivière Rouge.

Nous reconnaissons que le nord du Manitoba comprend des terres qui étaient et sont toujours les terres ancestrales des Inuits.

Nous respectons l'esprit et l'objectif des traités et de la conclusion de ces derniers. Nous restons déterminés à travailler en partenariat avec les Premières Nations, les Inuits et les Métis dans un esprit de vérité, de réconciliation et de collaboration.



Minister of Labour and Immigration

Minister responsible for The Workers Compensation Board

Legislative Building, Winnipeg, Manitoba R3C 0V8 CANADA

Her Honour, the Honourable Anita Neville, P.C., O.M.
Lieutenant-Governor of Manitoba
Room 235 Legislative Building
450 Broadway
Winnipeg MB R3C 0V8

May it Please Your Honour:

I have the privilege of presenting, for the information of Your Honour, the Annual Report of the Manitoba Labour Board, for the fiscal year ended March 31, 2024.

Respectfully submitted,

Original signed by

Honourable Malaya Marcelino
Minister of Labour and Immigration





Ministre du Travail et de l'Immigration

Ministre responsable de la Commission des accidents du travail

Palais législatif, Winnipeg, Manitoba R3C 0V8 CANADA

Son Honneur l'honorable Anita Neville, P.C., O.M.
Lieutenante-gouverneure du Manitoba
Palais législatif, bureau 235
450 Broadway
Winnipeg (Manitoba) R3C 0V8

Votre Honneur:

J'ai le privilège de vous présenter, pour l'information de Votre Honneur, le rapport annuel de la Commission du travail du Manitoba pour l'exercice financier terminé le 31 mars 2024.

Je vous prie de recevoir l'expression de mes sentiments les plus distingués,

Original signé par

Honorable Malaya Marcelino
Ministre du Travail et de l'Immigration





MANITOBA LABOUR BOARD

Suite 500, 5th Floor – 175 Hargrave Street, Winnipeg, Manitoba, Canada R3C 3R8

T 204 945-3783

www.manitoba.ca/labour/labbrd

The Honourable Malaya Marcelino
Minister of Labour and Immigration
Room 156 Legislative Building
Winnipeg, MB R3C 0V8

Dear Minister:

It is my pleasure to present to you the Annual Report of the Manitoba Labour Board covering the period from April 1, 2023 to March 31, 2024.

Respectfully submitted,

Original signed by

Karine Pelletier
Chairperson



COMMISSION DU TRAVAIL DU MANITOBA
175, rue Hargrave, bureau 500, Winnipeg, Manitoba, Canada R3C 3R8
T 204 945-3783
www.manitoba.ca/labour/labbrd/index.fr.html

L'honorable Malaya Marcelino
Ministre du Travail et de l'Immigration
Palais législatif, bureau 156
Winnipeg (Manitoba) R3C 0V8

Madame la Ministre,

J'ai le plaisir de vous soumettre le rapport annuel de la Commission du travail du Manitoba pour l'exercice financier allant du 1^{er} avril 2022 au 31 mars 2023.

Je vous prie de recevoir, Madame la Ministre, l'expression de mes sentiments les plus distingués.

Original signé par

Karine Pelletier
Présidente

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Chairperson's Message

It is my pleasure to submit to you the 2023-2024 Annual Report of the Manitoba Labour Board.

As we reflect on the past year, it is with a deep sense of responsibility and pride that I present this annual report for the Board. Our work remains firmly grounded in a commitment to fostering good labour relations, promoting collaboration, and ensuring fair, credible, and accessible processes that facilitate resolving matters.

One of our key priorities this year has been strengthening our commitment to accessibility and fairness in dispute resolution. We have streamlined our processes and increased outreach to ensure workers and employers have timely access to the support they need. In doing so, we continue to see timely resolution of disputes through alternative mechanisms, such as mediation, which fosters collaborative solutions and reduces the burden on our formal adjudication processes.

This year, we also hosted the bi-annual Board seminar, which serves as a platform for information and discussion among board representatives and vice-chairpersons to share insight and exchange views on our shared vision, mandate and responsibilities. The conference's keynote speaker, Laurelle Harris, challenged us to be more responsive, inclusive and fair in our adjudicative processes.

As we move forward, we are committed to building on the progress made, while remaining agile in the face of emerging challenges. We recognize the importance of fostering a balanced relationship between employers and employees, where mutual respect, transparency, and accountability guide every interaction.

I would like to express my gratitude to the dedicated Vice-Chairpersons, representative members of the Board, the staff, and all the stakeholders who have contributed to the success of our work this year. I would like to recognize Tom Paci, who passed away during the reporting period. Mr. Paci diligently served as a representative board member, and provided exceptional, dedicated service during his short tenure.

I would also like to express my sincere gratitude to Colin Robinson, who served the Board with great distinction for over 21 years, the last 12 as the Board's Chairperson. During his tenure, Colin oversaw significant transformation at the Board, including a focus on alternative dispute resolution processes that led to a sharp decrease in the number of cases that proceeded to hearing. The Board was also able to tackle the complex problems that emerged during the pandemic, assist the Board in navigating this challenging period and emerge a stronger, more resilient Board.

We are tremendously grateful to Colin for his leadership and dedication over the years, and I recognize that I have very large shoes to fill. I am thankful for his wise counsel and sage advice over the years. I intend to do my best to build on the successes of the past to ensure that the Board continues to provide the exceptional service the community expects.

Many thanks for your continued support,

Karine Pelletier
Chairperson, Manitoba Labour Board

Message du président

J'ai le plaisir de vous présenter le rapport annuel 2023-2024 de la Commission du travail du Manitoba.

Alors que nous réfléchissons aux réalisations et aux jalons de l'année écoulée, c'est avec un profond sentiment de responsabilité et de fierté que je présente ce rapport annuel de la Commission. Grâce à notre engagement tant dans notre travail qu'auprès du public, nous nous efforçons de favoriser de bonnes relations de travail, de promouvoir la collaboration et d'assurer des processus équitables, crédibles et accessibles qui facilitent le règlement des différends.

L'une de nos principales priorités cette année a été de renforcer notre engagement à l'accessibilité et l'équité dans la résolution des litiges. Nous avons adapté nos procédures et renforcé nos activités de sensibilisation afin de garantir aux travailleurs et aux employeurs un accès rapide à l'aide dont ils ont besoin. Ce faisant, nous continuons à voir des litiges résolus rapidement par des mécanismes alternatifs, tels que la médiation, ce qui favorise les solutions collaboratives et réduit la charge sur nos processus formels décisionnels.

Cette année, nous avons également organisé un séminaire pour les membres de la Commission, événement biennuel qui sert de plateforme pour le partage d'idées et l'échange d'information entre membres représentants de la Commission, ainsi que pour les vice-présidents. Ce séminaire nous donne une occasion de discuter ouvertement notre vision, notre mandat et nos responsabilités communes. La conférencière principale, Laurelle Harris, nous a mis au défi d'être plus inclusifs et plus équitables dans nos processus décisionnels.

À mesure que nous avançons, nous nous engageons à consolider les progrès accomplis, tout en restant agiles face aux nouveaux défis. Nous reconnaissons l'importance de favoriser une relation équilibrée entre les employeurs et les employés, où le respect mutuel, la transparence et la responsabilité guident chaque interaction.

Je tiens à exprimer ma gratitude aux vice-présidents dévoués, aux membres représentatifs de la Commission, au personnel et à toutes les parties prenantes qui ont contribué à notre succès cette année. Je tiens à remercier Tom Paci, qui est décédé au cours de la période couverte par le présent rapport. M. Paci a servi avec diligence en tant que membre représentatif du conseil, et a fourni un service exceptionnel et dévoué tout au long de son court mandat.

Je tiens également à exprimer ma sincère gratitude à Colin Robinson, qui s'est distingué dans l'exercice de ses fonctions au service de la Commission pendant plus de 21 ans, dont les 12 dernières années en tant que président. Au cours de son mandat, Colin a, entre autres, dirigé des transformations importantes au sein de la Commission, notamment en mettant un accent tout particulier sur les procédures alternatives de résolution des litiges, ce qui a entraîné une forte diminution du nombre d'audience devant la Commission. Le Commission a également été en mesure de réagir rapidement et efficacement pendant la pandémie, afin de naviguer plus facilement cette période difficile et d'en ressortir plus fort et plus résilient.

Nous sommes extrêmement reconnaissants à Colin pour son leadership et son dévouement au fil des ans, et je reconnais que j'ai de très grandes responsabilités à assumer. Je lui suis reconnaissant pour ses conseils avisés et sa sagesse. J'ai l'intention de faire de mon mieux pour m'appuyer sur les succès du passé afin de garantir que la Commission continue à fournir le service exceptionnel que la communauté mérite.

Je vous remercie pour votre soutien continu,

Karine Pelletier

Présidente, Commission du travail du Manitoba

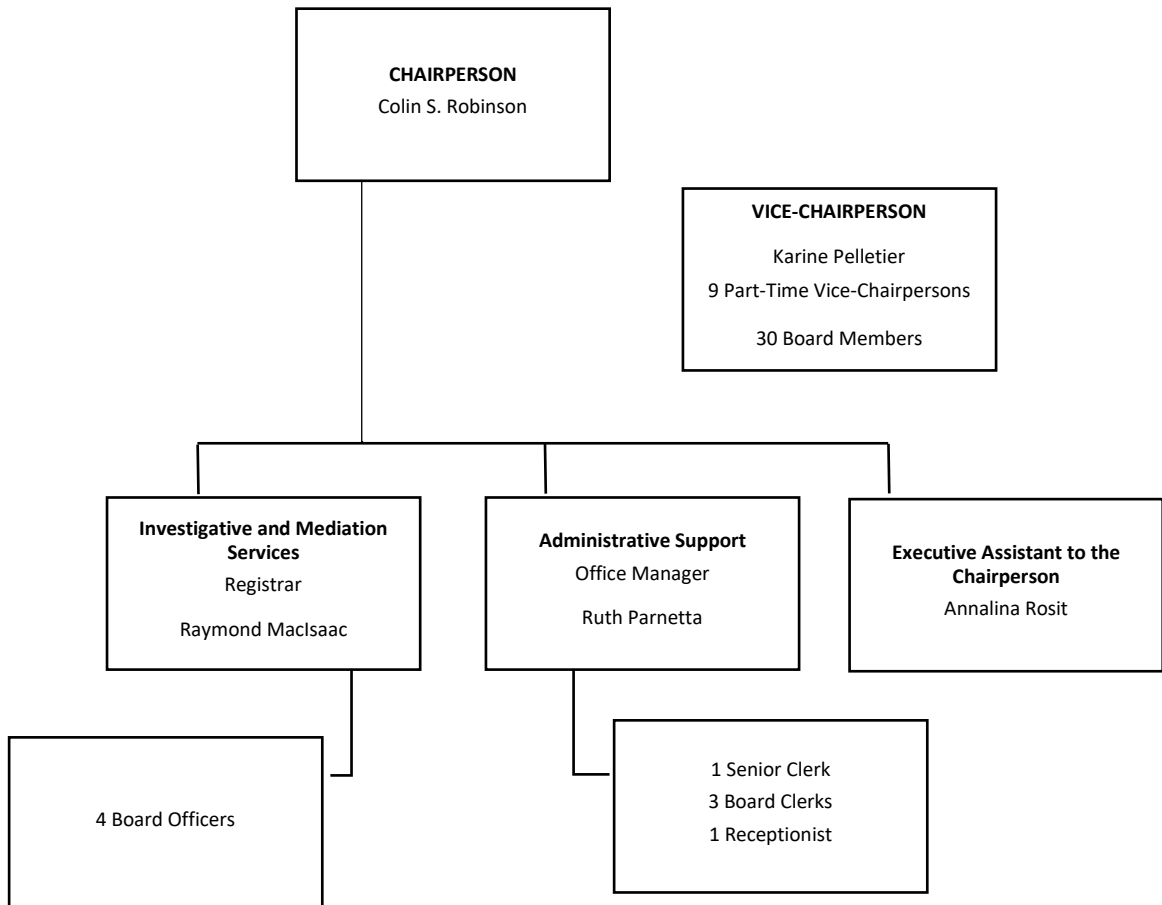
Board Members

In the year under review, the Board consisted of the members listed below. Biographies of all current members are available on our website. Biographies of newly appointed members are included on page 29.

Chairperson
Colin S. Robinson
Full Time: Vice-Chairperson
Karine Pelletier
Part Time: Vice-Chairpersons
Adrian Frost (appt 2024-03-29) Kristin L. Gibson T. David Gisser, K.C. (appt 2024-03-29) A. Blair Graham, K.C. Diane E. Jones, K.C. (retired 2024) Helen Krahm (appt 2024-03-29) Janet Mayor Kathy McIlroy Michael D. Werier, K.C. Gavin M. Wood

Employer Representatives	Employee Representatives
James H. Baker Michael Bereziak (appt 2023-04-18) Elizabeth M. Black Christiane Y. Devlin Scott Jocelyn Paul J. LaBossiere Chris Lorenc Jane MacKay (to 2023-04-17) Yvette Milner Sean Naldrett René Ouellette Darcy Strutinsky Denis Sutton Andrea Thomson Peter Wightman James (Jim) Witiuk (to 2023-12-31)	George Bouchard Marie Buchan Abstinencia Diza Greg Flemming Colin Ghostkeeper (appt 2023-04-18) Dee Gillies (to 2023-12-31) Tom Henderson Janet Kehler Nancy Kerr Marc Lafond Mary Lakatos (appt 2023-04-18) Lee Manning (appt 2023-04-18) Diane Mark (to 2023-04-17) Paul McKie (appt 2024-01-01) Sandra Oakley (to 2023-04-17) Tom Paci (to 2023-09-06) Aarti Sharma (appt 2023-04-18) Tony Sproule (to 2023-04-17) Roland Stankevicius (to 2023-04-17) Glen Tomchak

Organization Chart



(as of March 31, 2024)

Introduction

Role

The Manitoba Labour Board is an independent specialist tribunal with responsibilities under The Labour Relations Act, The Employment Standards Code, The Workplace Safety and Health Act and 11 other statutes. The Board responds to applications, appeals, and referrals and assists parties to resolve disputes informally through mediation, or formally by making final decisions, often after conducting a hearing.

The Labour Relations Act	The Employment Standards Code	The Workplace Health & Safety Act
The Remembrance Day Act	The Elections Act	The Essential Services Act (Government and Child and Family Services)
The Pay Equity Act	The Construction Industry Wages Act	The Essential Services Act (Health Care)
The Public Schools Act	The Apprenticeship and Certification Act	The Public Interest Disclosure (Whistleblower Protection) Act
The Worker Recruitment and Protection Act	The Victims Bill of Rights	

Report Structure

The Board's annual report is prepared pursuant to Subsection 138(14) of The Labour Relations Act:

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

Values and Mission

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

Rôle

La Commission du travail du Manitoba est un tribunal spécialisé indépendant qui assume des responsabilités en vertu de la loi sur les relations du travail, du code des normes d'emploi, de la loi sur la sécurité et la santé au travail et de onze autres lois. La Commission répond aux demandes, aux appels et aux renvois et aide les parties à résoudre leurs différends de manière informelle par la médiation ou de manière formelle en rendant des décisions finales, souvent après avoir tenu une audience.

Loi sur les relations du travail	Code des normes d'emploi	Loi sur la sécurité et l'hygiène du travail
Loi sur le jour de Souvenir	Loi électorale	Loi sur les services essentiels (services gouvernementaux et services à l'enfant et à la famille)
Loi sur l'égalité des salaires	Loi sur les salaires dans l'industrie de la construction	Loi sur les services essentiels (soins de santé)
Loi sur les écoles publiques	Loi sur l'apprentissage et la reconnaissance professionnelle	Loi sur les divulgations faites dans l'intérêt public (protection des divulgateurs d'actes répréhensibles)
Loi sur le recrutement et la protection des travailleurs		Déclaration des droits des victimes

Structure du rapport

Le rapport annuel de la Commission est rédigé conformément au paragraphe 138(14) de la Loi sur les relations du travail:

«Le rapport contient un compte rendu des activités de la Commission, le texte ou le résumé intégral de ses décisions et des décisions judiciaires importantes reliées aux attributions que la présente et toute autre loi de la Législature lui confère ainsi que le texte complet des lignes directrices ou notes de pratique qu'elle a établies au cours de l'exercice. »

Valeurs et mission

En tant que tribunal spécialisé, indépendant et autonome, la Commission du travail du Manitoba a pour mission de favoriser l'application juste et équitable des lois en matière de travail et d'emploi qui relèvent de sa compétence. Les valeurs qui guident les activités de la Commission sont l'impartialité, l'efficacité, la rapidité et la cohérence. Par ses activités, la Commission vise à mieux faire comprendre au public les responsabilités et les droits prévus dans la loi. La Commission s'engage à offrir des services de médiation aux parties afin de les aider à résoudre leurs différends dans la mesure du possible, tout en rendant une décision juste et impartiale, au besoin.

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.

Highlights

- The Board saw a 23% increase in the number of certification and revocation votes, affecting 1,766 employees. There was a slight decrease (4%) in the overall number of cases. There was a 39% increase in the number of cases that were scheduled and proceeded to hearing.
- The Board has managed a similar caseload to the previous fiscal year while navigating a 60% turnover in administrative staff and 25% turnover in board officers. The Board was also focused on preparing for a transition in leadership with the retirement of our long-standing chairperson in April 2024.
- The Board has continued to focus on access to justice by creating systems and procedures that ensure litigants are well-equipped in advance of hearings. Forms and templates available on our website are being updated to ensure accessibility, and the Board is transitioning to plain language in correspondence and documents, as well as increasing the Board's French-language capacity.
- The Board trialed several innovative ways to assist self-represented litigants who required assistance, information and support in respect of their applications and the Board's processes.
- The Board hosted training and development opportunities through the year including a seminar for board members and officers, lunch and learn sessions, and orientation sessions for new members, arbitrators and vice-chairpersons. The Board also offered informational sessions for employers, unions and legal counsel.

Financial Information

Expenditures by Sub-Appropriation	Actual 2023/24 (\$000s)	FTE	Estimate 2023/24 \$(000s)	Variance Over/(Under) \$(000s)
Total Salaries	1,451	14.5	1,598	147
Total Other Expenditure	144		190	(46)
Total Expenditures	1,595	14.5	1,788	101

Increased salary costs related to MGEU pay increase, reclassification of four positions and an increased number of vice-chairperson and board member appointments to conduct a higher number of hearings.

Objectifs

- s'acquitter de ses responsabilités législatives de manière impartiale, efficiente, bien informée, respectueuse et cohérente, et en temps opportun;
- encourager et faciliter le règlement de différends par le biais de mécanismes alternatifs de résolution des différends, dans la mesure du possible, tout en rendant des décisions, au besoin;
- favoriser la compréhension des droits, des responsabilités et des procédures énoncés dans les dispositions législatives que la Commission doit interpréter et appliquer;
- établir des règles, des pratiques et des procédures efficaces, qui sont claires, accessibles, justes et impartiales.

Points saillants

- Le nombre de votes d'accréditation et de révocation a augmenté de 23%, touchant 1 766 employés. Le nombre total de cas a légèrement diminué (4 %). Il y a eu une augmentation de 39 % du nombre d'audiences schedulé et qui ont procédé à une audience.
- La Commission a géré une charge de travail similaire à celle de l'année fiscale précédente, tout en gérant une rotation de 60 % du personnel administratif et de 25 % des agents de la Commission. La Commission s'est également concentrée et s'est préparée pour une transition du leadership engendré par la retraite du président de longue date en avril 2024.
- La Commission a continué à mettre une emphase tout particulier sur l'accès à la justice en créant des systèmes et des procédures qui garantissent que les parties sont bien équipées avant les audiences. Les formulaires et les modèles disponibles sur notre site web ont été mis à jour afin de garantir l'accessibilité, et la Commission adopte un langage simple et clair dans sa correspondance et ses documents, tout en augmentant les capacités linguistiques en français des employés de la Commission.
- La Commission a entrepris plusieurs méthodes innovantes pour aider les parties non représentées par un avocat qui ont besoin d'assistance, d'information et de soutien concernant leurs demandes et procédures de la Commission.
- La Commission a organisé des formations et des sessions de développement professionnel tout au long de l'année fiscale, notamment un séminaire pour les membres représentatifs et les agents de la Commission, ainsi que des sessions de déjeuner et d'apprentissage, et des sessions d'orientation pour les nouveaux membres, arbitres et vice-présidents. La Commission a également organisé des séances d'information pour les employeurs, les syndicats et les conseillers juridiques.

Information financière

Dépenses par sous-crédit	Dépenses réelles 2023/24 (en milliers de dollars)	ETP	Estimation 2023 – 2024 (en milliers de dollars)	Écart Positif/(négalif) (en milliers de dollars)
Total des salaires	1,451	14.5	1,598	147
Total des autres dépenses	144		190	(46)
Total des dépenses	1,595	14.5	1,788	101

Augmentation des coûts salariaux liée à l'augmentation des salaires du MGEU, à la reclassification de quatre postes et à l'augmentation du nombre de nominations de vice-présidents et de membres du conseil afin de mener un plus grand nombre d'audiences.

Operational Overview

The Board's operations can be categorized into three broad sections: Adjudication, Administration and Mediation and Investigative Services. The Board's adjudicators and representative members are appointed by Order in Council for fixed terms. The administrative and mediation and investigative staff are public servants as defined in the Public Service Act.

Adjudication

Over the course of the reporting period, the Board was comprised of a full-time chairperson, a full-time vice-chairperson, ten part-time vice-chairpersons and thirty-six 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. Representative Board members are paid in accordance with the number of meetings and hearings held throughout the year. The Board does not retain legal counsel on staff. Legal services are provided through Legal Services Branch of Manitoba Justice.

Mediation and Investigative Services

Mediation and Investigative Services is comprised of the registrar and four board officers, who report to the registrar. The board officers are responsible for the day-to-day management of files, applications, appeals, and referrals filed with the Board. They are appointed to act as Board representatives to attempt to resolve or narrow issues between parties, reducing the need for hearings. They act as returning officers in Board conducted representation votes, attend hearings and assist the registrar in the processing of various applications.

The registrar, reporting to the chairperson, is the chief administrative officer of the Board, responsible for the overall administration of the Board's business operations, mediation and adjudication. The registrar supervises the day-to-day investigative and mediation activities of the Board. The primary responsibility of the registrar is to oversee the effective processing of each case and communicating with parties and with the public, together with the board officers, regarding policies, procedures and jurisprudence. They act as the conduit between the Board and the government.

Administrative Services

The office manager, reporting to the chairperson, plays a key role in ensuring the efficient operation of the Board through the effective coordination of financial oversight, procurement, information technology and client services. The office manager also supervises five clerical staff, who provide 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. The group receives and processes freedom of information and protection of privacy requests.

Aperçu opérationnel

Les activités de la Commission peuvent être classées en trois grandes catégories : L'arbitrage, l'administration et les services de médiation et d'enquête. Les arbitres de la Commission et les membres représentatifs sont nommés par décret pour une durée déterminée. Le personnel administratif et les services de médiation et d'enquêtes sont des fonctionnaires au sens de la loi sur la fonction publique.

Adjudication

Au cours de la période considérée, la Commission était composée d'un président à temps plein, d'une vice-présidente à temps plein, de neuf vice-présidents à temps partiel et de trente-six membres la Commission, avec un nombre égal de représentants des employeurs et des employés. Le président préside la Commission conformément aux dispositions de la loi sur les relations du travail. Les membres représentatifs de la Commission sont rémunérés en fonction du nombre de réunions et d'audiences tenues au cours de l'année. La Commission ne dispose pas d'un conseiller juridique au sein de son personnel. Les services juridiques sont fournis par la Direction des services juridiques de Justice Manitoba.

Services de médiation et d'enquêtes

Les services de médiation et d'enquêtes sont composés du registraire et de quatre agents de la Commission, qui rendent compte au registraire. Les agents de la Commission sont chargés de la gestion quotidienne des dossiers, des demandes, des appels et des renvois déposés auprès de la Commission. Ils sont nommés pour agir en tant que représentants de la Commission afin de résoudre ou de simplifier les contentieux entre les parties, afin d'éviter les litiges. Ils agissent en tant qu'agents de scrutin lors des votes de représentation organisés par la Commission, assistent aux audiences et aident le registraire à traiter les différentes demandes.

Le registraire, sous l'autorité du président, est le principal fonctionnaire administratif de la Commission. Il est responsable de l'administration générale des activités de la Commission, de la médiation et de l'arbitrage. Le registraire supervise les activités quotidiennes d'enquête et de médiation de la Commission. La principale responsabilité du registraire est de superviser le traitement efficace de chaque dossier et de communiquer avec les parties et le public, en collaboration avec les agents de la Commission, en ce qui concerne les politiques, les procédures et la jurisprudence. Le poste agit comme intermédiaire entre la Commission et le gouvernement.

Services administratifs

Le gestionnaire de bureau, qui rend compte au président, joue un rôle clé dans le fonctionnement efficace de la Commission en coordonnant les fonctions de surveillance financière, d'approvisionnement, de la technologie de l'information et des services à la clientèle. Le gestionnaire de bureau supervise également cinq employés qui assurent le soutien administratif quotidien de la Commission, le contrôle fiscal et la responsabilité des dépenses opérationnelles, ainsi que l'élaboration et le suivi des systèmes et des procédures du bureau. Le groupe reçoit et traite les demandes relatives à l'accès à l'information et la protection de la vie privée.

Communications/Resources

Library Collection

Copies of these documents can be made available in accordance with the fee schedule by calling 204-945-3783 or by emailing MLB@gov.mb.ca.

- 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.

Website

Visit the Board's website at <http://www.gov.mb.ca/labour/labbrd> to find:

- The Acts under which the Board has jurisdiction
- Guide to the Labour Relations Act
- What to expect at your hearing
- Forms
- Information Bulletins
- Written Reasons for Decision and Substantive Orders

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.

Ressources en matière de communication

Collection de la bibliothèque

Des copies de ces documents sont accessibles conformément au barème des droits en téléphonant au 204 945-3783 ou en écrivant à MLB@gov.mb.ca.

- Décisions arbitrales
- Conventions collectives
- Certificats
- Statuts et règlements des syndicats
- Motifs écrits des décisions et ordonnances importantes

Publications

Rapport annuel de la Commission du travail du Manitoba – une publication qui présente les effectifs et les membres de la Commission ainsi que les points saillants des décisions importantes rendues par la Commission et les tribunaux ainsi que des statistiques concernant les diverses affaires traitées au cours de la période couverte par le rapport.

Site Web

Consultez le site Web de la Commission à l'adresse www.gov.mb.ca/labour/labbrd/index.fr.html pour trouver:

- Les Lois duquel la Commission dérive sa juridiction
- Guide à la Loi sur les relations du travail
- Comment vous préparer pour votre audience
- Formulaires
- Bulletins d'information
- Motifs écrits des décisions et ordonnances importantes

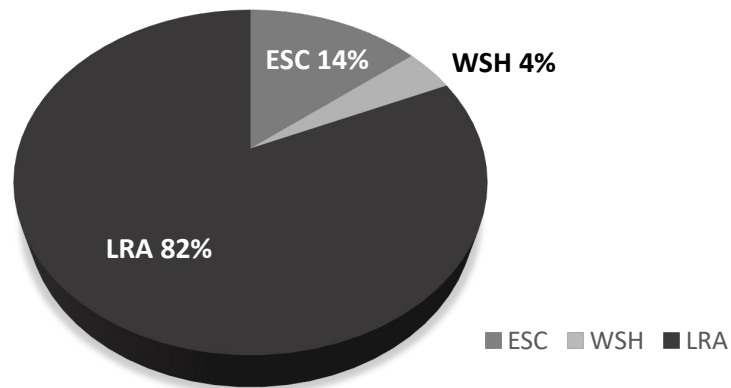
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Performance Reporting

246 CASES OPENED

	23-24	22-23	21-22	20-21	19-20
LRA	201	219	209	143	235
ESC	35	29	19	27	23
WSH	10	8	12	12	9
ELECT	0	0	0	0	1
TOTAL	246	256	240	182	268

2023-2024 Case Type



64

Cases narrowed or resolved after the appointment of a board representative.

98

Case Management Conferences

216

Hearing Dates Scheduled

50

Hearing Dates Proceeded

83

Cases Scheduled for Hearing

35

Cases Proceeded to Hearing

116

Orders issued

64

Written Reasons / Substantive Orders issued

16 VOTES CONDUCTED

1766 Employees Affected

25 Certificates and Decertifications issued

58 EXPEDITED ARBITRATION APPLICATIONS

19 CONCILIATORS AND GRIEVANCE MEDIATORS APPOINTED

Statistics

Type of Application	Cases Carried Over	Cases Filed	Total	Disposition of Cases						
				Granted	Dismissed	Withdrawn	Did Not Proceed	Declined to Take Action	Disposed	Pending
LABOUR RELATIONS ACT										
Certification	10	25	35	18	6	5	-	-	29	6
Revocation	1	7	8	5	3	-	-	-	8	-
Amended Certificate	5	9	14	13	-	1	-	-	14	-
Unfair Labour Practice	8	11	19	-	3	10	-	-	13	6
Board Ruling	4	1	5	-	-	-	-	-	-	5
Review and Reconsideration	2	13	15	-	13	-	-	-	13	2
Changes in Work Conditions (Sec. 10(3))1	-	6	6	6	-	-	-	-	6	-
Duty of Fair Representation (Sec. 20)	22	41	63	1	31	9	-	-	41	22
Subsequent agreement (Sec. 87.1(1))	-	1	1	-	-	1	-	-	1	-
First Contract	-	3	3	2	-	1	-	-	3	-
Religious Objector	-	1	1	1	-	-	-	-	1	-
Successor Rights	-	2	2	1	-	-	-	-	1	1
Other	-	1	1	1	-	-	-	-	1	-
Appoint Arbitrator (Sec. 115(5))	-	6	6	3	-	3	-	-	6	-
Request to Appoint a Conciliator	-	17	17	16	-	1	-	-	17	-
10(1) Change in Terms & Conditions of Employment During the Time of an Application for Certification	-	4	4	3	-	1	-	-	4	-
Referral for Expedited Arbitration	5	53	58	55	-	-	-	-	55	3
Sub Totals	57	201	258	125	56	32	-	-	213	45
Employment Standards Code										
ESC referrals and appeals	17	35	52	3	5	23	-	-	31	21
Workplace Safety and Health Act										
WSHA referrals and appeals	4	10	14	1	2	4	-	-	7	7
Totals	78	246	324	-	129	63	59	-	251	73

Summaries of Significant Board Decisions

	Labour Relations Act
C.U. and Manitoba Government and General Employees' Union and Assiniboine Community College Case No. 193/22/LRA July 11, 2023	Section 20 – Duty of fair representation (Undue Delay) The Employee worked as a distance instructor for approximately 18 years and worked both remotely and on-campus. During the pandemic, the Employee was directed to work remotely. In December 2020, the Employee was directed to return to work on campus two days per week. The Employee asserted that family responsibilities prevented them from accepting the reassignment and that, as a result, they were effectively forced to retire. The Employee claimed that the Union had a duty to represent them as it related to the location reassignment. The Union argued that the Applicant resigned before the accommodation process could commence and that, in any event, the complaint was untimely, having been filed 18 months following the reassignment. Further, the Union noted that it communicated with the Employee throughout, attended meetings and provided the Employee advice. Decision: The Board dismissed the Employee's complaint due to undue delay in accordance with subsection 30(2).
C.M.T. and United Brotherhood of Carpenters and Joiners of America, Local 343 and Northstar Access Case No. 9/23/LRA October 26, 2023	Section 20 – Duty of fair representation (Internal Union Business) The Employee claimed that the Union failed to represent them when it determined it would not be laying charges under the Union's Constitution and Charter for harassment by another member. The Employee also claimed that the Union failed to dispatch them for work opportunities. The Union argued that the issues raised by the Employee were internal union matters that were neither covered under the collective agreement, nor by section 20 of the <i>Act</i> . The Employer submitted that the Application was without merit and failed to establish a <i>prima facie</i> case. Decision: The Board found that the Application did not establish a <i>prima facie</i> breach of section 20(b) and dismissed the Application pursuant to section 30(3)(c) of the <i>Act</i> . The Board affirmed that the duty of fair representation does not extend to internal union business and that the Board lacked jurisdiction to deal with them.

F.A. and Canadian Union of Public Employees, Local 204 and Shared Health (Grace Hospital) Case No. 275/22/LRA March 13, 2024	Section 20 – Duty of fair representation (Arbitrary Conduct) The Employee started working as a hospital aide clerk in April 2022. The Employee outlined at hearing that they were thriving in the workplace up to mid-June 2022 when they took a short medical absence from work. Upon their return, they discovered that their desk had been rifled through and that there were files missing. The Employee raised these concerns with the Employer. The Employee testified that it was at that point that their standing within the workplace started to decline. A series of performance related meetings ensued. At each meeting, a union representative was present and took extensive notes. Several issues were discussed in these meetings, including the possibility of extending the Employee’s probationary period. The Employee’s probationary period was extended, despite their claiming that they did not understand the reason for the extension, and despite the collective agreement stipulating that the union needed to agree to the extension. The employee, due to fear of being terminated, discussed the matter with their union representative and concluded that it was in the employee’s best interest to resign. Following their resignation, the Employee had many additional conversations with their union representative before filing with the Board. Decision: The matter initially proceeded before the Board as a preliminary hearing to assess whether the Applicant had established a <i>prima facie</i> breach of the <i>Act</i>. The Board ruled that the Applicant had met the test, and it proceeded to hear the remaining evidence. The Board determined that the Union acted in an arbitrary fashion when it did not do enough to ensure that they properly understood the reasons for the probationary extension; that they were not relying upon faulty assumptions; and provide clear and appropriate information to the Employee. The Board ordered that the Union pay to the Employee \$2,000.00 in accordance with section 31(4)(e) of the <i>Act</i>.
K.S. and Manitoba Government and General Employees’ Union and Metis Child, Family and Community Services Case No. 260/22/LRA September 11, 2023	Section 20 – Duty of fair representation (Failure to establish a <i>prima facie</i> violation) The Employee filed an application alleging that the Union did not properly represent them and had not informed them of their right to file a grievance following the implementation of changes to a COVID-19 Vaccination Policy at the Employee’s workplace. The Employee stated that the lack of communication, lack of direction and the Union’s failure to properly investigate their concerns, which they felt unduly delayed their return to the workplace while on leave, all demonstrated that the Union failed to represent them. The Board determined that the matter should proceed to a preliminary hearing to assess whether there was a <i>prima facie</i> violation of the <i>Act</i>. Decision: The Board was satisfied that the evidence demonstrated that the Union turned its mind to the Employee’s concerns. Moreover, the Union considered the information provided and sought a legal opinion regarding the Employee’s issues. The Board dismissed the Application.

I.O. and Unifor Local 341 and Air Liquide Canada Inc. Case No. 70/23/LRA March 19, 2024	Section 20 – Duty of fair representation (Abandoned claim) The Employee filed an application claiming a settlement agreement they signed had been entered into at a time when they were unable to properly consent to the terms of the agreement. The Employee claimed that the settlement was void given their medical state at the time of execution. Throughout the proceedings, the Employee failed to contact the Board when requested or to attend the scheduled mediation or hearing. Both the Union and the Employer brought forward motions to dismiss the Application on the basis that that the Employee had abandoned their claim and had not demonstrated interest in pursuing it. The Employer argued the Application should be dismissed due to the Employee’s failure to participate, and on the basis that they had entered into a settlement agreement giving up their rights to pursue any actions against the Employer and the Union. Decision: The Board dismissed the Employee’s application given the Employee’s complete lack of contact with the Board and non-attendance at both the scheduled mediation and hearing. The Board was satisfied that the Employee had ample opportunity to contact the Board if they required an adjournment. An employee bringing a complaint under Section 20 of the <i>Act</i> has the onus of establishing the Union failed in their obligations to represent the employee in any way. By failing to attend the hearing, the onus was not discharged.
U.C.R. and Amalgamated Transit Union, Local 1505, and City of Winnipeg – Transit Department Case No. 63/23/LRA November 8, 2023	Section 20 – Duty of Fair Representation (Grievance Request) The Employee, an experienced bus operator, filed an application claiming that the Union did not show sufficient interest in their situation by refusing to file a grievance and failing to obtain legal advice after the Employee was issued a written letter of warning. The Employee requested that the Board order that a grievance be filed. The Union submitted that the evidence failed to establish a <i>prima facie</i> violation of the <i>Act</i>. Decision: The Board was satisfied that there was no evidence that the Union represented the Applicant in a manner which was considered to be arbitrary, discriminatory or in bad faith. The Application was dismissed.

F.O., J.N., O.K., L.S., V.U., and Manitoba Government and General Employees' Union and Prairie Mountain Health Case Nos. 146/23/LRA, 149/23/LRA, 150/23/LRA, 152/23/LRA and 153/23/LRA November 20, 2023	Section 20 – Duty of fair representation (Collective Bargaining & Restructuring) The Applicants, former employees of the Addictions Foundation of Manitoba (AFM), alleged that the Union failed to provide adequate representation to them during collective bargaining with their new employer, Prairie Mountain Health (PMH). In addition, the Applicants alleged that the Union “failed to provide representation during the merger between AFM and PMH and further, failed to take any measures to support the employees’ transition and to represent them in any way”. Decision: The Board has consistently held that section 20 of the <i>Act</i> applies to the conduct of bargaining agents in representing the rights of employees under a collective agreement and that allegations respecting collective bargaining cannot be the subject of a complaint under this provision. Therefore, the Applicants’ complaints relating to collective bargaining were considered by the Board to be without merit and were dismissed in accordance with subsections 30(3)(c) and 140(8) of the <i>Act</i>. With respect to the allegations that the Union acted contrary to section 20 in relation to transitional matters, the Board agreed that those complaints were unduly delayed and were dismissed in accordance with subsection 30(2) of the <i>Act</i>.
L.R. and Unifor Local 191 and Unifor National and Unifor Local 191 Case No. 117/23/LRA June 15, 2023	Section 20 – Duty of fair representation (Same Bargaining Unit & Employer) The Employee filed an application alleging a violation of the Duty of Fair representation against Unifor and Unifor Local 191 as their bargaining agent and Unifor Local 191 as the Employer. Unifor Local 191 submitted that it was both the bargaining agent and employer, and that there had been a long-standing practice of employees of Unifor Local 191 having their terms and conditions of employment set forth in collective agreements. It was argued that the Local is a bargaining agent as defined by the <i>Act</i> and that the collective agreement was a valid executed agreement negotiated by employees on their own behalf, setting out their terms and conditions of employment. Decision: The Board accepted Unifor was not a party to any collective agreement in which Unifor Local 191 is the Employer. The Board noted section 43 of the <i>Act</i> where it is indicated that an entity cannot be both an employer of employees and their bargaining agent. The Board also determined that the prerequisites for the Application of section 20 of the <i>Act</i> had not been met. There was neither a bargaining agent, nor a collective agreement under which any bargaining agent was obligated to represent employees consistent with the requirements of section 20. As a result of the Board’s determinations, the Application was dismissed.

K.E.N.S. and Canadian Union of Public Employees, Local 2153, and Winnipeg Child and Family Services Case No. 237/22/LRA October 27, 2022	Section 20 – Duty of fair representation (Constructive Dismissal) The Employee was a long-term employee of the Employer and testified that they were the subject of harassment and discrimination by the Employer. The Employee claimed they raised these concerns on many occasions with the Union. After a series of incidents with the Employer, including a transfer to a new location, the Employee proceeded on a medical leave of absence. Almost five months later, the Employee tendered a lengthy and thorough letter of resignation to the Employer, detailing the issues they had in the workplace, stemming back to 2009. The Employee did not reach out to their Union prior to tendering the resignation. The Applicant claimed to have asked the Union on several occasions to address the issues of harassment and the impending relocation before returning to work. Confronted with the predicament of working with a supervisor with whom they had previous concerns, the Employee felt that they had no choice but to resign from employment. The Employee claimed constructive dismissal and entitlement to severance pay. The Union argued that it met its duty of fair representation by allowing the Applicant to bring forward their concerns and support them through the filing of a complaint. They also provided representation and took notes in all interactions and meetings, advising the Employee that their complaint would be addressed once medically cleared to return to work. After the Employee resigned, the Union also attempted to address their concerns, by informing the Employee that the collective agreement did not permit the payment of severance and that they would need to seek reinstatement in order for the Union to adequately address their concerns. The Employee was clear that they did not wish to return to work. Decision: The Board reviewed a long line of authorities in this case to consider the issue of what constitutes a dismissal for the purposes of making clause (a) of section 20 applicable. Despite the Employee’s contention that they were constructively dismissed, the Employee was not dismissed by the Employer in accordance with the Act. The Employee’s employment ended when they elected to resign. The Applicant had a choice to remain employed while their complaint remained outstanding and had the option of consulting with their union representative prior to resigning. Further, even after they resigned, they had the chance to reconsider and potentially withdraw their resignation. On these facts, the Board agreed with the position of the Union that the case does not concern a dismissal and, section 20(a) of the <i>Act</i> did not have application. The Board viewed that the Applicant’s loss of employment happened because of their misapprehension of their case and a failure to protect their own interests by communicating clearly with their union representative and specifically consulting with the Union prior to deciding to resign. There were no facts to support a conclusion that the Union acted arbitrarily, discriminatory, or in bad faith per section 20(b) of the <i>Act</i>. The Application was dismissed.
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KPIC Maintenance Services Inc. and International Brotherhood of Electrical Workers Case No. 127/23/LRA July 23, 2023	Section 53 – Cancellation for abandonment (Certificate Revocation) The Employer filed an application requesting that the Board exercise its jurisdiction pursuant to subsections 53(1) and 53(2) of <i>The Labour Relations Act</i> to investigate and cancel a union certification issued by the Board in April 2022. The Union did not oppose the Application and did not file a formal Reply to the Board. Decision: The Board determined that certification of the Bargaining Agent should be cancelled. The Board was satisfied, noting that more than 12 months had passed since the date of certification, that the Bargaining Agent had failed to exercise its bargaining rights regarding represented employees.
E.I. and International Union of Operating Engineers and Municipality of Swan Valley West Case No 83/23/LRA July 5, 2023	Section 48(2) – Procedure on votes (Cancellation of Certificate) The Applicant filed an application seeking the Cancellation of a Certificate. The Bargaining Agent requested that a Representation Vote be conducted, in accordance with subsection 48(2) of <i>The Labour Relations Act</i>, to determine the true wishes of the affected employees. The Board requested written submissions from the parties on the issue of whether the Application was filed at a time permitted pursuant to subsection 49(2) of the <i>Act</i>. Decision: The Board ordered that a Representation Vote be conducted. A majority of ballots were cast for the Certified Bargaining Agent. The Board dismissed the Application.
U.M. and Manitoba Association of Health Care Professionals and Shared Health Inc. Case No. 28/23/LRA May 15, 2023	Section 143(3) - Board Review Section 17(1) – Application for review of board decision (No New Evidence) (Rules of Procedure) The Employee filed an application for review and reconsideration of a Dismissal Order pursuant to section 143(3) of the <i>Act</i> and section 17 of the Board’s <i>Rules of Procedure</i>. In the Review Application, the Employee submitted that there was new evidence that was not available at the time of the hearing that may affect the Board’s decision. The Applicant also asserted that there was a misunderstanding of the evidence provided and errors in the facts outlined in the Dismissal Order. Decision: The Board dismissed the Review Application, having been satisfied that the Employee not only had the documents or access to them at the time of proceedings but entered certain pieces of them into evidence. In addition, the Employee had not provided any cogent reason why the information in the Review Application would “so change the situation as to call for a different decision, order, declaration or ruling”.

L.P. and The International Association of Bridge, Structural, Ornamental and Reinforcing Ironworkers, Local Union 728 Case No. 99/23/LRA September 7, 2023	Section 19 – Unfair labour practice by union (Union Membership Rights) The Applicant filed an application seeking Remedy for an alleged breach of sections 19(c) and 19(d) of <i>The Labour Relations Act</i>. The Applicant was a red seal journeyman ironworker and was a member of the Union for approximately 25 years. The Applicant requested termination of their Union membership but then later requested to have their membership reinstated on three occasions. The Applicant’s requests were denied. The Union requested that the Board dismiss the Application because it was untimely and did not disclose a <i>prima facie</i> case. The Union maintained that the Board did not have jurisdiction over the subject matter of the complaint, which pertains to the Union’s membership rules pursuant to its Constitution. Decision: The Board determined that the Application did not include any facts that would establish a violation of the <i>Act</i>. The Applicant had voluntarily terminated their membership. In addition, the Board ruled it had no jurisdiction over internal union membership rights under a union’s Constitution or bylaws. The Application was dismissed.
O.E. and Canadian Union of Public Employees, Local 4270, and Southern Health Sante Sud Case No. 96/23/LRA December 18, 2023	Section 139(8) –Allegations of bias (Disqualify Vice-Chairperson) At the outset of hearing into their application, the Employee requested that the Vice-Chairperson be removed from the panel due to allegations of bias and conflict of interest. Decision: The Board rejected the Applicant’s motion on the basis that there was no conflict of interest or reasonable apprehension of bias, and there was no basis for the Vice-Chairperson to recuse themselves from acting as the presiding member of the panel dealing with this Application. The Applicant’s request was denied.
Canadian Union of Public Employees, Local 5546, Salem Home Support Association (“SHSA”) and Salem Home Inc. Case No. 226/23/LRA February 22, 2024	Rule 7 – Information to be filed by union (Successor Union) – Rules of Procedure The Union filed an application seeking a merger of CUPE Local 5546 and Salem Home Support Association (“SHSA”). CUPE declared that it is the successor bargaining agent to the SHSA, and that CUPE had acquired the rights, privileges and obligations pursuant to section 55 of the <i>Act</i>. In support of the Application, CUPE Local 5546 filed current Union Qualifying Information pursuant to Rule 7 of the Manitoba Labour Board <i>Rules of Procedure</i> and included a copy of the merger agreement and information regarding the merger vote conducted by the SHSA. The Employer objected to the application and merger. Decision: The Board determined that there had been a merger between CUPE Local 5546 and the SHSA, and that CUPE was the successor to the SHSA. The Board also determined that CUPE Local 5546 had acquired the rights, privileges and obligations under the <i>Act</i> of the SHSA, effective the date of the merger.

Construction and Specialized Workers' Union Local 1258 and Wintec Building Services Inc. Case No. 124/23/LRA October 16, 2023	Section 61 – Notice to commence collective bargaining for renewal, etc., of agreement (Board Determination) The Union contended that a notice period of more than nine months to commence collective bargaining prior to the expiration of the Collective Agreement is not compliant with subsection 61(1) of the <i>Act</i>. The Union sought the Board to invalidate the notice period contained in the parties' Collective Agreement and to impose the statutory notice period contained in section 61(1) of the <i>Act</i>. The Employer advised that the <i>Act</i> contemplates at section 62(2) that the parties are entitled to devise different notice periods, which encourages the parties to customize their own notice periods, to ensure that the notice to bargain reflects their mutual intention. Decision: The Board concluded that section 61(1) does not impose a statutory minimum, and that the parties were at liberty to bargain a different notice period as contemplated by section 62(2) of the <i>Act</i>.
Bakery Confectionary Tobacco Workers and Grain Millers International Union Local 389 and Wonder Brands Inc. Case No. 49/23/LRA November 28, 2023	Section 34(1) – Right to apply for certification (Management Exclusions from the Bargaining Unit) The Union filed an application seeking certification as the bargaining agent. The Employer submitted that six of the 14 individuals coming within the Applicant's proposed bargaining unit should be excluded on the basis that they perform management functions primarily. The Union contended that none of the contested positions perform management duties primarily and were not employed in a confidential capacity in matters relating to labour relations. Decision: The Board was satisfied that the individuals who occupied the contested positions met the test of employee under the <i>Act</i> as they neither performed managerial duties primarily, nor were employed in a confidential capacity in matters relating to labour relations. The evidence presented did not make it unfair to those persons, the employer or the Union to include them in a unit for collective bargaining purposes. The Board ordered that the ballots cast in the Representation Vote be counted.

R.C.T. and Godwin Enterprises Inc. (Janitorial Division 1) Case No. 5/23/LRA November 9, 2023	Section 7- Discrimination in hiring etc. (Reprisal) The Employee was hired by the Employer and there were concerns with the Employee's tardiness and attention to detail regarding work tasks from the outset. Less than one month later, the Employee was terminated. The next day, the Employee contacted the Employment Standards Branch (ESB), complaining that they had not received payment for work they had completed during their final shift. The Employer stated that it terminated the Employee before they contacted the ESB and that they had been terminated for just cause due to tardiness from the workplace, leaving work early, and their inability to complete the tasks that were required. Decision: The Employee raised issues with ESB following the termination of their employment. To engage section 7, the Employee would have needed to establish that they engaged their rights and were terminated as result. The Board was unable to conclude that the Employer violated section 7 of the <i>Act</i>. The Application was dismissed for failing to establish a <i>prima facie</i> violation of the <i>Act</i>.
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	Employment Standards Code
4619588 Manitoba Ltd t/a Tasse's Balkan Foods and E.V. Case No. 217/22/ESC June 23, 2023	Protected Leave Dismissal/Unpaid Wages On September 28, 2022, the Employment Standards Branch (ESB) referred the matter to the Board pursuant to subsection 110(1) of <i>The Employment Standards Code</i> for a decision on two issues. The first issue related to the Employee's contention that they were dismissed for accessing the "Public Health Emergency Leave", a temporary job-protected leave for employees who were unable to work during the COVID-19 pandemic. The Employee needed to establish a <i>prima facie</i> case that they were on protected leave at the time that they are alleged to have been terminated from employment. The second issue was whether the Employee was entitled to be paid for the hours they alleged working on May 8, 2021. Decision: To determine the issue of termination while on protected leave, the Board was required to decide issues of credibility between the parties and their witnesses, and in this case, make such findings of credibility given the divergent evidence heard. In the end, the Board accepted that the Employee requested and was granted Public Health Emergency Leave by the Employer, and that the Employee was not dismissed for accessing a protected leave. The Board also determined that the Employee failed to establish a <i>prima facie</i> breach of the <i>Code</i>. In terms of the unpaid hours claimed to be owed to the Employee by the Employer, the best evidence available to the Board was the evidence of those employees who testified unequivocally that the Employee did not work on May 8, 2021. The Board made this finding having considered the credible testimonial evidence presented by the Employer's witnesses, coupled with the fact that the issue was never raised with the Employer until it was brought to its attention through the ESB complaint. Further, the Board found it instructive that the Employee did not seek a correction to their Record of Employment upon receiving it. The Board dismissed the Employee's claim.

Matix Lumber Inc. and P.I. Case No. 238/22/ESC Date: August 2, 2023	Section 96 – Order for Payment of Wages (Termination or Resignation) Pursuant to section 96(1) of <i>The Employment Standards Code</i>, a Payment of Wages Order was issued to the Employer, who appealed asserting that the Employee had resigned from employment after a verbal altercation with a human resources representative at the end of their shift. The Employer bore the onus of proof to satisfy the Board, on the balance of probabilities, that the Employee was not terminated but resigned their employment. Decision: When considering the totality of the evidence, the Board found it reasonable for the Employer to conclude that the Employee formed the requisite subjective intention to quit and then objectively carried out that intention. During the altercation with the human resources representative, the Employee uttered the words, “I’m done”, removed their shop key, and threw it down in front of the representative. This was further bolstered by the fact that the Employee did not advise the human resources representative that they did not intend to quit when the representative called them later that day, nor did the Employee attempt to clarify their intentions at any point thereafter. The Employer’s appeal was allowed.
Jet Set Window Cleaning and C.T. Case No. 69/23/ESC September 19, 2023	Section 62(1) – Exceptions to notice requirements (Just Cause Termination) The Employee commenced work for the Employer as an office employee and was terminated approximately five months later. The Employer testified that the Employee was constantly making mistakes and not following directions. The Employer claimed that they had just cause to terminate the Employee. The Employee claimed that they were entitled to wages in lieu of notice and vacation pay. The Employer had given the Employee warnings to correct their mistakes and get tasks completed. The Employer also took core responsibilities away from the Employee because the Employer could not rely on the Employee to complete the tasks properly, in fact demoting the Employee. Decision: The onus was on the Employer to prove they had just cause to terminate the Employee pursuant to section 62(1) of <i>The Employment Standards Code</i>. In determining whether the Employer had met that onus, the Board accepted that the Employee was insubordinate in their behaviour and attitude. They were regularly making mistakes and ignoring direction. The Board also accepted uncontested evidence of the witnesses that the Employee attended a job interview during the time they asked the Employer to be off work to attend a doctor’s appointment. The Board concluded the continued insubordination and dishonesty constituted just cause for termination. The Board determined that there were no monies owing to the Employee.

Tuff Built Products Inc. and L.U. Case No. 45/23/ESC January 2, 2024	Payment of Wages (Discretionary Bonus) The Employment Standards Branch issued a Payment of Wages Order to the Employer for unpaid wages and vacation wages. The Employer appealed, arguing that the ordered sum was in fact a discretionary bonus, which would not fit within the definition of “wages” contained in <i>The Employment Standards Code</i>. Decision: The Board concluded that wages and vacation wages were owed to the Employee. The Board made this determination based on the uncertainty and lack of detail within the Employment Agreement. The Employer also failed to provide clear and explicit information to the Employee distinguishing between commission and bonus payments and clarifying the basis upon which type of payment would be made.
G.F. and Westman Immigrant Services Inc. Case No. 208/23/ESC February 13, 2024	The Labour Relations Act 140(3) – Public Hearing The Employer requested a closed hearing on the basis that the Employee would be bringing forward evidence which the Employer alleged was falsified and dishonest, relating to health and safety, financial matters, intellectual property, legal contracts and client information. The Employer suggested this information, if heard in an open public forum, may cause harm to their business. The Employee stated that this was a matter involving just cause for termination allegations and denied that there was any sensitive information in the nature suggested by the Employer. Decision: The Employer’s request for a closed hearing was denied. The Board was not persuaded that intimate financial or personal matters would be disclosed at hearing of such a nature that, having regard to the circumstances presented, would cause the privacy interests of the Employer, or more generally the public interest, to outweigh the desirability of adhering to the principle that hearings be open to the public.

	Workplace Safety and Health Act
Fun Tyme Foods Ltd. and D.I. and Director, Workplace Safety and Health Case No. 214/22/WSH May 11, 2023	Section 42(1) – Reprisals Prohibited (Termination of Employment) Workplace Safety and Health issued a decision which concluded that the Employee had suffered a reprisal by the Employer and was entitled to a payment of \$36,746.66. The Employer filed an Appeal to the Board. The Employer filed correspondence with the Board requesting an interim stay and suspension of the decision, which the Board granted after determining that the Employer had satisfied its onus of establishing that there were compelling reasons to suspend the operation of the Order. At the hearing, the Employee argued that the President terminated their employment because they held an election to select an in-store safety representative, rather than appointing the President’s preferred candidate. The Employer argued that it was the Employee’s work behaviour and performance which led to the breakdown in the employment relationship and the termination. Decision: The Employer submitted that the evidence presented at the hearing did not suggest a breach of section 42 of the <i>WSHA</i> . The Board was not satisfied that the Employee had attempted to exercise their rights under the <i>WSHA</i> and suffered a reprisal as a result. The Board allowed the Appeal. The Employee’s application was dismissed.

	Judicial review applications
Fun Tyme Foods Ltd v [D.I.], 2023 MBCA 91 Court of Appeal MLB Case 214/22/WSH Docket No. AI23-30-09968 Heard by Justice leMaistre October 26, 2023	The Employee sought leave to appeal the decision of the Board which allowed the Employer’s appeal of a safety and health officer’s decision. They also sought an extension of time to file an application for leave to appeal the Board’s decision. Decision: The motions for leave to appeal and for an extension of time were dismissed. The Court determined that the Employee did not have grounds for appeal with a reasonable chance of success using any of the arguments they raised. Moreover, the issues raised were not of sufficient importance to warrant the attention of the Court and it was not persuaded that there was a risk of an injustice if it did not grant leave to appeal.

Biographies

In the year under review, the following board members were appointed.

Adrian Frost

Appointed on a part-time basis in 2024, Adrian Frost 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 labour relations, employment and human rights law. His practice includes appointments to serve as a mediator and/or arbitrator in labour relations matters.

T. David Gisser, K.C.

Appointed on a part-time basis in 2024, David Gisser holds a Bachelor of Civil Law (BCL) and a Bachelor of Laws (LLB) from McGill University, as well as a Master of Laws (LLM), specializing in administrative law, from Osgoode Hall Law School. He served as crown counsel and general counsel with the legal services branch of Manitoba Justice from 1985 until his retirement in late 2023 and has also served as vice-chairperson of the Municipal Board of Manitoba (on secondment) and as a deputy chief commissioner of the Residential Tenancies Commission. He has been a sessional instructor in clinical administrative law at the Faculty of Law, University of Manitoba since 2005. He was appointed Queen's Counsel (now King's Counsel) in 2020.

Helen Krahn

Appointed as part-time vice-chairperson in 2024, Helen Krahn is an arbitrator on the Manitoba Labour Board's list of arbitrators and deputy chief commissioner at the Residential Tenancies Commission. Ms. Krahn's previous appointments and affiliations consist of various representative, barrister, and attorney roles. She holds a Bachelor of Laws from the University of Manitoba and practices in labour and employment law. She actively volunteers at the United Deportivo Manitoba F.C., and Winnipeg Folklorama.

Michael Bereziak

Appointed in 2023, Michael Bereziak is currently the director, human resource services of Shared Health Manitoba. Previously, he was employed in a number of senior human resource and labour relations roles at the City of Winnipeg, and also served on the board of directors at the Workers Compensation Board of Manitoba.

Colin Ghostkeeper

Appointed in 2023, Colin Ghostkeeper has worked for the Manitoba Government & General Employees' Union since 2002. Starting in the MGEU Resource Centre, Colin moved into a staff representative role in 2006. Mr. Ghostkeeper has been involved in representing members in such sectors as civil service, crown corporations, healthcare, and nonprofit agencies, servicing the membership and bringing grievances forward, and began negotiating collective agreements in 2008. Colin took on the role of member service manager in 2021 and manages a team of MGEU staff representatives working around the province. Colin is a graduate of the Labour College of Canada Certificate Program, and also the National Union of Public Employees Leadership School 2011.

Mary Lakatos

Appointed in 2023, Mary Lakatos has worked for the Manitoba Nurses Union (MNU) as a labour relations officer since 2010. Prior to working with MNU she was employed in the health care field as a registered nurse. She has also held various union positions throughout her nursing career, including grievance chair, and has been a member representative on the MNU provincial bargaining committee. As a labour relations officer she is responsible for enforcing the collective agreement, facilitating positive employee relations, addressing grievances, participating in arbitrations and negotiating collective agreements.

Lee Manning

Lee Manning received certification in Human Resources Management from the University of Manitoba in 2000. He has worked as a labour leader, independent consultant and negotiator, human resources consultant, director of human resources and executive director. He worked for 20 years as a labour leader at Carling O'Keefe and subsequently Molson Breweries until their closure in 1997. He has worked primarily in human resources in healthcare both in the public and private sectors. He has acted as executive director involving management of a healthcare union and advocate for membership.

Paul McKie

Appointed in 2024, Paul McKie was employed as a national representative with Unifor (and one of its predecessors, CEP) from 2003 until his retirement from Unifor in late 2023. Additionally, Mr. McKie was Unifor's area director for Manitoba and Saskatchewan from February 2017 until his retirement. As a national representative, he dealt with grievances from the later stage up to and including arbitration. Collective bargaining was at the core of his responsibilities. Prior to working for Unifor, Mr. McKie was a journalist with the Winnipeg Free Press from April 1985 until January 2003. Mr. McKie has a Specialist Bachelor of Arts degree in Political Science with a Major in Canadian Labour History from the University of Toronto at Mississauga. He has been chair and trustee on the board of trustees for a small, jointly-trusted pension plan since April 2017.

Aarti Sharma

Aarti Sharma has been working within the labour movement since 2016. Ms. Sharma currently works with the Operating Engineers Local 987 as a business representative where she primarily represents her membership through grievance handling, collective bargaining and other labour relations matters. Ms. Sharma's educational background includes a Bachelor of Arts degree in Labour Studies and Management and a second bachelor's degree in social work. Ms. Sharma sits on various boards including the Executive Board of the Operating Engineers Local 987 and their Health & Welfare/Pension Board as a trustee.