

ANNUAL REPORT 2018



Labour Relations Board of British Columbia

February 28, 2019

The Honourable David Eby
Attorney General of British Columbia
Parliament Buildings
Victoria, B.C.
V8V 1X4

Dear Honourable Minister:

RE: Labour Relations Board 2018 Annual Report

I am pleased to forward to you the Labour Relations Board's annual report for the year ending December 31, 2018. This Report has been prepared for your review pursuant to Section 157(2) of the *Labour Relations Code*.

Yours truly,
LABOUR RELATIONS BOARD

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke extending to the right.

Jacquie de Aguayo
Chair

Enclosure

cc. The Honourable Harry Bains
Minister of Labour
Parliament Buildings
Victoria, B.C.
V8V 1X4

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CHAIR'S MESSAGE

2018 was an exciting year of transition and renewal for the Board. The Board has a new Executive as I was appointed Chair and named Vice Chair Koml Kandola as Registrar and Vice Chair Jennifer Glougie as Associate Chair of Adjudication and Mediation. We also welcomed five new Vice Chairs to the Board: Andres Barker, Karen Jewell, David Duncan Chesman, Q.C., Brett Matthews, and Stephanie Drake. They all bring a wealth of experience, intelligence, dedication, and love of labour relations to their roles.

Change is also happening with the Board's infrastructure. We are happy to say that parties can now enjoy a high-speed internet connection and stable Wi-Fi in our hearing rooms and reception area. In addition, our ageing case management system is being replaced by one that will vastly improve our ability to collect, report, and analyze data on labour relations disputes and outcomes.

For 2019, we have started a review of the Board's existing administrative guides, processes, bulletins, and website. We want to make sure they remain current, use plain language, and address the needs of our stakeholders and the public. We plan to launch a survey asking you to tell us what information you want to see in the Board's Annual Report, on its website, or in its information guides. We also want to hear from you about how we can improve on the Board's accessibility and effectiveness.

As we move forward, we are committed to ensuring that our processes and facilities meet the needs of labour relations stakeholders in British Columbia. That commitment requires collaboration and dialogue. To that end, we will be creating more opportunities to listen, to learn, and to change. It is a privilege for all of us at the Board to do the work that we do. In 2019, we want to hear from you as we focus on building an even more dynamic, open, and accessible Labour Relations Board.



Jacquie de Aguayo
Chair

I. THE CODE AND THE LABOUR RELATIONS BOARD

The *Labour Relations Code* (the "Code") establishes the statutory framework for all aspects of collective bargaining for provincially-regulated employers, employees, and trade unions to whom the Code applies.

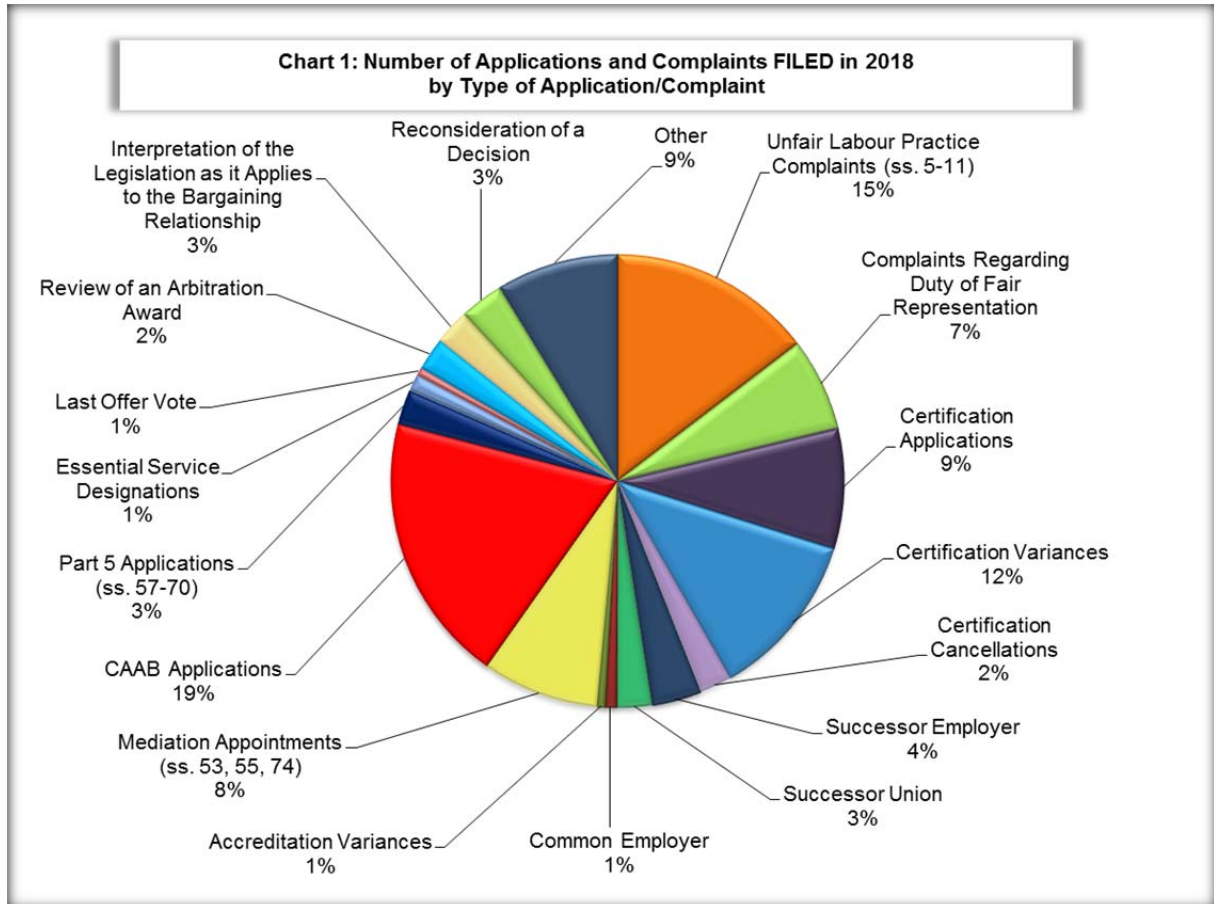
This includes: how employees get access to trade union representation (certification); the process of collective bargaining between trade unions and employers; the rights, duties, and obligations of employees, trade unions, and employers; and the settlement and adjudication of unfair labour practices. The Code also establishes conditions for the exercise of the right to strike or lockout, and places limits on picketing and the use of replacement workers by employers during a labour dispute. It also provides for the maintenance of services during a labour dispute that are essential for the health, safety, or welfare of the residents of British Columbia and the provision of educational programs to students and eligible children. To assist parties in resolving collective bargaining disputes, the Code establishes access to a range of mediation and dispute resolution mechanisms.

The Code also requires that every collective agreement have a process for resolving disputes during its term, including access to arbitration. To support that objective, the Code includes the Collective Agreement Arbitration Bureau ("CAAB"), which administers a process for accessing an expedited arbitration hearing and/or settlement meeting.

The Code establishes the Board and gives it the exclusive jurisdiction to hear and determine applications and complaints made under the Code, as well as the authority to mediate and attempt to settle a wide range of disputes. Under Section 2 of the Code, the Board must exercise its powers and perform its duties in a manner that:

- (a) recognizes the rights and obligations of employees, employers and trade unions under this Code,
- (b) fosters the employment of workers in economically viable businesses,
- (c) encourages the practice and procedures of collective bargaining between employers and trade unions as the freely chosen representatives of employees,
- (d) encourages cooperative participation between employers and trade unions in resolving workplace issues, adapting to changes in the economy, developing workforce skills and developing a workforce and a workplace that promotes productivity,
- (e) promotes conditions favourable to the orderly, constructive and expeditious settlement of disputes,
- (f) minimizes the effects of labour disputes on persons who are not involved in those disputes,
- (g) ensures that the public interest is protected during labour disputes, and
- (h) encourages the use of mediation as a dispute resolution mechanism.

Table 1 of the Statistical Tables included in this Annual Report details the applications and complaints filed and disposed of by the Board in 2018, with comparative figures from 2017. The following chart is a summary of the types of applications and complaints filed in 2018:



For information on the time taken to adjudicate applications, organized by type, **Table 8** of the Statistical Tables provides information using an average and median number of days.

A. ORGANIZATION OF THE BOARD

The Board is organized into seven areas: the Office of the Chair, the Registry, the Adjudication Division, the Mediation Division, the Collective Agreement Arbitration Bureau (CAAB), Legal Services, and Administration.

The people at the Board are employees or appointed by order-in-council (“OIC”) for a specified period as a Vice Chair or as the Chair. There are currently eight OIC appointees: one Chair and 7 Vice Chairs. In accordance with the Code, the Chair has designated one Vice Chair as Registrar, and another as the Associate Chair of Adjudication and Mediation. The Code also provides for OIC appointments of Members who are representative of employers and employees. There are currently no Members appointed to the Board.

B. OFFICE OF THE CHAIR

The Code gives the Chair the authority to assign panels to hear and decide applications filed under the Code. The Chair may also sit as a panel of the Board. The Office of the Chair oversees applications for leave and reconsideration under Section 141 of the Code and, generally, is the presiding member of a reconsideration panel. For information on leave and reconsideration applications for 2018, as well as comparative information from previous years, see **Tables 4 and 5** in the Statistical Tables.

The Chair is also responsible for ensuring that the Board continues to administer the Code in a manner consistent with its terms and objects, and that its processes are timely and effective. The Chair is responsible and accountable for the Board’s operations and budget. As a quasi-judicial, expert tribunal with exclusive jurisdiction to decide questions arising under the Code, it is also the responsibility of the Chair to ensure that the proceedings of the Board are fair, neutral, and independent.

The role of the Chair is greatly assisted by the dedication and expertise of the Board’s employees, the experience and commitment to labour relations of its Vice Chairs, the skill and support of the Senior Executive Assistant to the Chair, Susan Noble, and the Board’s Executive - the Registrar, the Associate Chair of Adjudication and Mediation, and the Director of Mediation.

Finally, the role of the Chair is to foster and encourage dialogue and consultation with labour relations stakeholders. It is critical to stakeholder confidence in the Board’s ability to effectively and neutrally resolve disputes that it engage with employer, trade union, and employee groups. The expertise of the Board is enhanced by ensuring that it remains in touch with evolving labour relations trends and challenges.

C. THE REGISTRY

Every application received by the Board is processed through the Registry under the supervision of the Registrar. The Board’s current Registrar is Vice Chair Koml Kandola. The Senior Executive Assistant to the Registrar is Jayne Ottens, who not only has a wealth of experience in assisting the Registrar, but in supporting Registry operations generally.

In addition to administering the Registry, the Registrar also performs adjudicative functions as a panel of the Board. The Registrar also considers and decides certain applications where summary disposition is appropriate.

Mark Clark is the Board's Deputy Registrar. He brings an incredible amount of experience, dedication, and institutional memory to this role. The Deputy Registrar administers the informal dispute resolution services offered through the Registry. He also reviews complaints filed under Section 12 of the Code, many of which require additional information or clarification before the Registry accepts them for filing.

The Registry deals with applications in two general streams: expedited and non-expedited applications. With respect to non-expedited matters, and hearings on expedited matters, primary responsibility moves to the Adjudication Division under the direction of the Associate Chair of Adjudication and Mediation.

Approximately 55 percent of applications received by the Board are treated as expedited matters, whether as a result of Code-specified timeframes or the Board's established policies and procedures. Expedited matters generally remain within the Registry for processing and assignment to adjudication.

Generally, expedited matters fall into the following three categories:

- a) Applications for certification, decertification, or for an expanded bargaining unit where the Code requires that a representation vote be conducted within 10 days of the date of the application. Detailed information on these applications for 2018 is set out in **Tables 1, 1A, 1B, 2, 2A, 2B, and 3** of the Statistical Tables.
- b) Applications filed under Part 5 of the Code (i.e., applications relating to strikes, lockouts, picketing, and/or replacement workers). Proceedings may be commenced within 24 hours or within several days, depending on the circumstances. Detailed information on these applications for 2018 is set out in **Tables 1, 7, 8, and 9** of the Statistical Tables.
- c) Unfair labour practice complaints filed under Section 5(2) of the Code which require a hearing to commence within three days. Detailed information on these applications for 2018 is set out in **Table 1, 7, and 8** of the Statistical Tables.

Registry Operations

Among other things, Registry staff are responsible for initiating a new case when an application is received (whether expedited or non-expedited), sending out notice of the application, seeking submissions in some cases, and the overall processing and oversight of the file while it remains in the Registry.

Within Registry operations, the Deputy Registrar provides a leadership role and liaises regularly with stakeholders to ensure that the Board's administration is accessible. In addition, Case Administrators play a lead role in processing applications and offering a point of contact for applicants and respondents to a proceeding. There are currently three Case Administrators: Carol Taylor, Tina Lonneberg, and Chrissie Robinson.

For applications that require a representation vote, Case Administrators are also responsible for contacting the Board's Returning Officer ("RO"), Joe Leblanc, or its Deputy Returning Officer ("DRO"), Tammy Nystrom, in order to initiate the investigation process, determine threshold, and establish the terms under which a vote will be conducted.

Also critical to Registry operations are a number of administrative support positions, currently held by Barney Strandberg (Mail Clerk), Argie Mayamay (Administrative Clerk), and Rachel Yang (Senior Clerk), and the Board's auxiliary employee Kate O'Brien.

Registry staff must be familiar with legal principles, case law, and policies, including the information requirements for different types of applications, the confidentiality of membership information, and providing notice to parties and potentially interested parties to an application.

The Registry has undertaken various initiatives to increase the effective and expeditious processing of cases, including: (a) the introduction of "fast track" hearings for certification or decertification applications where there are no substantive areas of disagreement; (b) encouraging the use of more oral hearings where appropriate, in place of written submissions processes which may result in longer processing times; and (c) the transition to a new case management system in 2019.

In an effort to enhance accessibility and transparency, the Registry has also provided information sessions for stakeholders interested in learning more about Registry processes.

Informal Dispute Resolution

Once an application is accepted for filing and processed, the Board actively encourages the use of informal dispute resolution, which is used extensively during the processing of applications and complaints. Under the direction of the Deputy Registrar, cases that are first referred to informal dispute resolution are assigned to Special Investigating Officers ("SIOs"). There are presently two SIOs: Trish Martini and Gagan Dhaliwal. The vast majority of their caseload involves expedited matters such as unfair labour practice complaints, certifications, and Part 5 applications dealing with strikes, lockouts, and picketing.

However, SIOs are available to assist parties through an informal process at any stage of a proceeding. The Board's SIOs have a very high rate of success in achieving resolutions through this informal process (See **Table 9** of the Statistical Tables). These informal dispute resolution services are a critical function of the Board and this high rate of success furthers the Code purpose of encouraging mutual cooperation and timely and cost-effective dispute resolution.

Similar valuable services are provided by the Board's RO and DRO. They are responsible for investigating expedited applications that potentially require votes, and have primary responsibility for conducting votes in the Lower Mainland. A well-informed, problem-solving approach by the RO and DRO is critical to the Board's ability to process certification applications quickly and effectively. In addition, Industrial Relations Officers (IROs) from the Employment Standards Branch of the Ministry of Labour continue to conduct votes, where necessary, throughout the Province.

SIOs, ROs, and DROs also provide considerable assistance through written reports which may involve fact finding or narrowing the issues to be adjudicated on a wide variety of issues.

Information Services

Under the Code, the Board must designate an employee to act as its Information Officer. Currently, the Information Officer is Guy Pocklington. The Information Officer does not provide legal advice. Rather, the role involves responding to telephone and email inquiries from the public regarding the Board's processes. The Information Officer deals with approximately 3500 phone calls and email enquiries per year from employers, unions, individual employees, and media.

The Board's Reception also responds to information requests and inquiries, directing them to the appropriate Board resources, or to a different tribunal. Reception services also maintain the hearing room allocations and assist parties attending at the Board for hearings, mediations, and meetings. The Board's two receptionists are Miena Yue and Sayaka Lee.

The Board also prepares information guides and bulletins which provide information and assistance. These include an *Employer's Guide to the Union Certification Process* and *Questions and Answers for Employees Regarding the Union Certification Process*, as well as a *Section 12 Guide* explaining the Board's approach. Guides and bulletins are available on the Board's website under "Information Bulletins" or upon request in written form. The Board's website was officially launched in late 1999 and contains a wide range of information concerning the Board's processes, its Practice Manual, hearing schedules, and recent Board decisions. The website address is www.lrb.bc.ca.

D. THE ADJUDICATION DIVISION

The Adjudication Division is responsible for hearing and deciding applications that are not otherwise resolved through case management or informal settlement processes. The head of the Adjudication Division is Associate Chair Jennifer Glougie. Her Senior Executive Assistant is Susan Noble.

There are currently five Vice Chairs in the Adjudication Division, all of whom were appointed to the Board in 2018: Karen Jewell, Andres Barker, David Duncan Chesman, Q.C., Brett Matthews, and Stephanie Drake. Vice Chairs are assisted by exceptionally dedicated Executive Assistants: Jessica Tran, Kyla Smith, and Emma McLoughlin.

We are extremely grateful for the service, leadership, and dedication of Bruce Wilkins who served for 11 years as a Vice Chair, including in the role of Associate Chair. We are also grateful for the service and contributions of Leah Terai and James Carwana, who were each Vice Chairs for 6 years. We also mourned the loss, in 2018, of former Vice Chair Peter Archibald, Q.C., who brought humour, precision of thought, and an incredible range of expertise and insight to his role.

The Board's new Vice Chairs bring a variety of perspectives to the Board, having represented stakeholders in a range of industries in both the public and private sectors. For a six month period in 2018, one of the Board's legal counsel, Jennifer O'Rourke, acted as a Vice Chair under a temporary appointment under the *Administrative Tribunals Act*. We are grateful for her contribution and assistance.

The Statistical Tables speak to the amount and breadth of the work done in the Board's Adjudication Division every year.

The Associate Chair and Registrar work closely together to ensure that applications are processed and adjudicated effectively. Whether an expedited or non-expedited matter, it is the Adjudication Division that is responsible for the adjudication of disputes arising under the Code. The Adjudication Division decides an average of 700 applications per year. In 2018, there were 492 applications assigned and adjudicated.

In addition to decisions on expedited applications, the Adjudication Division decides non-expedited applications including duty of fair representation complaints, common and successor employer applications, reviews of arbitration awards, and reconsiderations of Board decisions. In 2018, the Board published 187 decisions. Some of the noteworthy decisions are summarized in Section II of this Report.

E. MEDIATION DIVISION

The Mediation Division offers mediation assistance in a wide range of areas, described below. The Associate Chair of the Mediation Division is Jennifer Glougie. The Director of Mediation is Grant McArthur. The Board's mediators are David Schaub, Christina Bains, and Trevor Sones. Donna Leche provides invaluable administrative support in the Division. Information about the services available from the Mediation Division can be obtained on the Board's website.

Some emerging trends, and challenges, identified by the Board's mediators are a shift toward longer collective agreements, an increased focus on job security and technological change language, benefits and their costs, and an increase in the number of tentative agreements that failed to ratify. For information on applications dealt with by the Mediation Division in 2018, please refer to **Tables 1 and 7** of the Statistical Tables.

Collective Bargaining Mediation

The majority of the Mediation Division's work involves collective bargaining. Mediators work with employers and unions to assist them in concluding the terms of first or renewal collective agreements. Most mediation appointments are made under Section 74 of the Code and involve the renewal of existing collective agreements.

Mediation under Section 55 of the Code is specific to first collective agreements. It confers on the mediator greater responsibility for mediation outcomes within tightly prescribed timeframes. A precondition to accessing this provision is that a trade union has taken a strike vote and a majority of the employees have voted in favour of a strike.

In 2018, mediators were appointed in response to 84 applications filed under Section 74, and 6 applications filed under Section 55.

Relationship Enhancement/Conflict Management

The Board also assists parties to understand conflict dynamics and improve problem solving in their relationship. These initiatives are available on the joint request of the parties. The mediators provide a number of customized options in this area, and work with the parties to design an approach that meets their specific needs. The mediators can also develop skills training and dispute resolution initiatives for entire organizations, specific departments, or

work areas based on the parties' particular needs. Mediators will generally conduct confidential interviews to identify the most effective approach.

Committee Effectiveness

Section 53 of the Code requires employers and unions to establish joint consultation committees to promote the cooperative resolution of workplace issues. The Mediation Division offers assistance to employers and unions to enhance the effectiveness of these committees, as well as other standing committees the parties may identify.

Other Services

Finally, the Mediation Division performs a wide range of other functions, such as dispute resolution assistance for essential services disputes, processing of Last Offer Votes, assisting in pre-arbitration hearing settlement meetings, as well as the filing and acknowledgement of strike and lockout notices required under the Code.

F. COLLECTIVE AGREEMENT ARBITRATION BUREAU (CAAB)

In 1994, CAAB was created by statute as an independent agency. In 2002, the Code was amended and CAAB was brought under the administration of the Board. The Board's Deputy Registrar, Mark Clark, also serves as CAAB Director. Approximately 19 percent of all applications filed with the Board relate to CAAB.

A union or employer may apply to CAAB, through the Director, for the appointment of an arbitrator for expedited arbitrations, non-expedited arbitrations where there has been a failure to appoint or constitute an arbitration board, or a joint request to appoint a mediator/arbitrator. The Director may also act as or appoint a settlement officer to attempt to resolve a grievance prior to arbitration. To support CAAB, the Board also offers the services of its SIOs and mediators as settlement officers. In the coming year, CAAB will continue to encourage parties to utilize settlement officer services as resources permit.

CAAB is also responsible for the publication of arbitration awards. It does so by forwarding arbitration awards filed with CAAB to publishing houses.

Applications filed with CAAB are processed through the Registry. The Director is responsible for the appointments of arbitrators which are selected from a register of arbitrators administered by CAAB.

The Minister of Labour appoints a community based Joint Advisory Committee ("JAC") to advise the Director on: the training and education of labour arbitrators and settlement officers, research and publication of information concerning labour arbitrations, and the establishment and maintenance of a register of arbitrators. The JAC consists of two representatives each from employers, unions, and arbitrators, and the Director sits as its Chair.

Through the JAC, CAAB has established criteria that arbitrators must satisfy to be placed on the register for appointment. The arbitrators registered with CAAB are recognized labour arbitrators in British Columbia and accepted by the community. For detailed information

about the criteria and register of arbitrators, visit the LRB website: www.lrb.bc.ca, under the links CAAB and Register of Arbitrators.

Maintaining a sufficient number of arbitrators on the register has become more challenging in recent years as arbitrators retire or reduce workloads. Gaining acceptance within the labour relations community requires an arbitrator to possess a specific set of skills, labour relations expertise, and adjudicative abilities, while also being impartial in conducting a fair hearing.

In 2017, in conjunction with the arbitrators association, the JAC adopted a mentorship model of training that has received traction within the community. Briefly, established arbitrators mentor an individual who, in their opinion, has the requisite skills, knowledge, and abilities to be trained as an arbitrator. The mentee receives substantial training from the established arbitrator in all facets of arbitration, including preparation, the arbitration itself, the decision-making process, and the writing of the reasons. The mentee is expected to shadow the arbitrator(s) for a significant period of time (approximately one year) on a daily basis.

When the established arbitrators are fully satisfied that the mentee has successfully completed training, and with their agreement, CAAB will place the mentee on the Register of Arbitrators and appoint the mentee to arbitration cases. By receiving these appointments, it is expected that the mentee will establish himself/herself as an arbitrator and, within a reasonable time, receive consensual appointments from the community.

There are some challenges with the mentorship model. First, collective agreement arbitrators are chosen by the parties and, therefore, must have a strong degree of acceptability by employers and unions to be placed on the register initially. Historically, an arbitrator required a minimum number of consensual appointments in a year in order to get on, and remain on, CAAB's Register of Arbitrators.

Second, while engaged as a mentee, an individual is not earning income. This limits the potential candidates who may be interested and able to transition into the role of an arbitrator through the mentorship program.

Notwithstanding these challenges, arbitration remains an integral and essential element of the legislative scheme of the Code. For information on the work of CAAB in 2018, see **Tables 1, 7, and 9** in the Statistical Tables. In addition, please refer to **Table 5** of the Statistical Tables for information on dispositions and success rates on applications for review of arbitration awards filed under Section 99 of the Code.

G. LEGAL SERVICES

The Board currently employs two Legal Counsel. Elena Miller is Senior Legal Counsel to the Board and has been with the Board for over 21 years. Jennifer O'Rourke is Legal Counsel to the Board and has been with the Board for over 13 years. Patricia O'Brien, Executive Assistant, provides them with invaluable support.

Both Elena Miller and Jennifer O'Rourke have extensive experience and knowledge of Board policy, practices, and decisions. They both offer invaluable advice and feedback to the Board on a wide range of matters. They also represent the Board in judicial review proceedings in court.

In April 2018, the Board was deeply saddened by the death of Legal Counsel David W. Garner. He contributed his sage advice, brilliant mind, good humour, and booming voice to the Board for over 17 years. In September 2018, the Board named a hearing room in his honour.

H. ADMINISTRATION

The Board could not function effectively without the experience and dedication of those who work in its Administration. Lara Anderson is responsible for the Board's information systems. In 2018, she has been instrumental in leading the technical and organization work necessary to transition to a new case management system. Charlotte-Anne Barich oversees the accuracy of the Board's records, including case files and dispositions, and is responsible for preparing the quarterly reports posted on the Board's website, and the Annual Report Statistical Tables. She also provides assistance in compiling information in response to information requests. Deb Alton is instrumental in maintaining the Board's financial management systems and accountabilities. And last, but not least, Michelle Yue provides a range of critical services to the Board including payroll and benefits administration, and the tracking and billing of filing fees.

II. HIGHLIGHTS OF BOARD DECISIONS

In 2018, the Adjudication Division published 187 numbered decisions. The following are summaries of some noteworthy decisions issued during the year. These summaries are provided for interest only, and they do not constitute legal or authoritative interpretations of the decisions in question. The full text of these and other Board decisions are available on its website (www.lrb.bc.ca).

Health Employers Association of British Columbia, BCLRB No. B4/2018 – Pursuant to Section 19.5(a) of the *Health Authorities Act*, the Minister directed the Board to add a stand-alone bargaining unit for ambulance paramedics and dispatchers. The outstanding issue was how to best describe the new bargaining unit. With the Board's assistance, the parties were able to reach an agreement and the Board determined the proposed terms were consistent with the Code and met the requirements of the *Act* in respect of health sector labour relations.

Aheer Transportation Ltd. and Sunlover Holding Co. Ltd., BCLRB No. B7/2018 – The Employers applied under Section 99 of the Code for review of an arbitration award granting general damages against them. The panel found the reasons given in the Award explained the appropriateness of an award of substantial damages against each Employer, including the practical and legal justification for such an award in the circumstances. The panel found the amount awarded by the arbitrator against each of the Employers was a matter falling within the considerable deference the Board gives to arbitrators regarding remedial matters. The Section 99 application was dismissed.

Coeur Silvertip Holdings Ltd., BCLRB No. B10/2018 – The Union applied under Section 7(2) of the Code for an order granting its representatives access to the Employer's employees at its mine in northern BC. The Union also applied under Section 7(3) for an order requiring the Employer to provide room and board to its representatives during the period of access. The Employer argued that granting the orders would give the Union greater access to onsite employees than it would have if they lived offsite. Further, the Employer argued the Union already had representatives at the mine representing a different employer. The panel found this was an appropriate case to order access under Section 7(2) of the Code. The mine was in a remote location and none of the employees left the camp while they were on rotation. Employees also had no access to cell phone service while on rotation. When employees were off rotation, they returned to their homes in various regions of the Province and country. Accordingly, the panel was satisfied the Union did not have the same access to the employees as they would to non-resident workers. The panel also dismissed the Employer's argument that access should not be granted because the Union had a presence at the mine through its certification for employees of another employer. The panel also found an order for room and board was appropriate in the circumstances.

Diversicare Canada Management Services Co. Inc., BCLRB No. B15/2018 (Reconsideration of No. B178/2017 allowed) – The Union applied for leave and reconsideration under Section 141 of the Code of a decision dismissing its application for a common employer declaration under Sections 38 and 142 of the Code. The reconsideration panel held it is inconsistent with the purposes of Section 38 of the Code to compartmentalize or view in isolation the range of factors to be weighed in determining the issue of common control or direction. It found the original panel erred in limiting itself to only one criterion.

Under the Board's established approach in *Concerned Contractors Action Group*, BCLRB No. 32/86, 13 CLRBR (NS) 121, the Board must have regard to the totality of the evidence in determining whether it points to the existence of common control or direction. Accordingly, the Section 141 application was allowed.

***Canadian Affiliates of the Alliance of Motion Picture and Television Producers*, BCLRB No. B18/2018** – The panel found that earlier inquiry decisions mandated having a “safe harbour agreement” in place before bargaining could commence, but did not mandate the content of that agreement. The panel ordered specific language for the agreement, given that bargaining was scheduled to commence within days of the hearing.

***University of the Fraser Valley*, BCLRB No. B24/2018 (Leave for Reconsideration denied in No. B158/2018)** – The Union alleged the Employer interfered with the administration of the Union by: investigating harassment complaints involving three members of the Union's executive acting in their capacity as Union officers; refusing to provide copies of the harassment complaints to the Union; refusing to allow the Union to retrieve its files and property on the Employer's premises; and declining to grant release time to the Union officers the Union designated to replace the executive officers. The panel found the Employer violated the unfair labour practice provisions of the Code by: proceeding with the investigations of the complaints in the manner it did; not granting the Union access to the complainants' offices in order to retrieve Union files and property; and not granting release time to Union members. With respect to the investigation of the harassment and bullying complaints, the panel remitted the matter of remedy to the parties to determine how to proceed in light of both parties' obligations under the Code and the WorkSafe BC scheme.

***Red Chris Development Company Ltd. (Imperial Metals)*, BCLRB No. B25/2018 (Leave for Reconsideration denied in No. B42/2018)** – The panel found the presence of surveillance cameras during organizing permitted by an access order had a potential chilling effect on employees, even where there was no evidence the Employer used its existing security systems to actively monitor the Union's organizing drive. In the absence of evidence which would outweigh that chilling effect, the panel ordered the Employer to either disable or cover up the security cameras that would otherwise capture the areas in which the Union was conducting its organizing drive.

***Coast Capri Hotel*, BCLRB No. B26/2018** – The Employer applied for a declaration that it was entitled to bargain with the Union individually and not obliged to bargain as a group with the Coast Hotel employer group. The panel found the group bargaining arrangement was an informal and voluntary arrangement – there was no written agreement about group bargaining and participants had previously been permitted to withdraw from the group bargaining arrangement. As well, the Employer had provided sufficient notice to allow the parties to prepare for bargaining under a different format. Accordingly, the panel issued a declaration that the Employer was entitled to withdraw from bargaining as part of the group arrangement and to bargain individually with the Union in accordance with the Union's certification.

***Aerocar Service Ltd.*, BCLRB No. B28/2018 (Leave for Reconsideration of No. B204/2017 denied)** – The Employer applied under Section 141 of the Code for leave and reconsideration of an original decision on the basis that it was denied a fair hearing when the original panel proceeded with the hearing in the absence of a representative from the Employer. The panel noted the complaint before the original panel was filed under Section 5(2) of the Code. Under Section 5(2), the Board is required to commence a hearing within

three days, to promptly proceed with the hearing without interruption, except for any necessary adjournments, and to render a decision on the complaint within two days of the completion of the hearing. In this case, this was the Employer's third application for an adjournment. The original panel took into account the history between the parties and the fact that the Employer's delays had the potential to undermine the employees' confidence in the Union and thereby thwart the Union's ability to effectively represent the bargaining unit. The reconsideration panel found that, in all the circumstances, the Employer was given ample opportunity to find and retain counsel or another representative to appear on its behalf for the hearing and the original panel did not deny the Employer a fair hearing by refusing to grant the further adjournments and proceeding with the hearing in the absence of the Employer.

United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada, Local No. 170, BCLRB No. B37/2018 – Local 170 applied for interim relief under the Code, alleging the UA International improperly commenced and pursued a trusteeship proceeding against it. The panel found all of the indicia to grant an interim order were met. Local 170's case under Section 10 of the Code was not frivolous or vexatious and was strong enough to proceed to a hearing; an adequate remedy would not be available without an interim order, particularly because there were newly elected officers attempting to create a new relationship with the signatory contractors and negotiating a bargaining protocol agreement; there was a strong link between the specific alleged breaches of Section 10 of the Code, the consequences of that alleged breach in terms of having to go through the trusteeship proceeding, and the interim relief sought; the interim relief would not penalize the UA International in a manner that would prevent redress if the application failed on the merits; granting interim relief regarding the trusteeship proceeding, and thus maintaining the status quo, was consistent with Code objectives because it would allow the new leadership of Local 170 to continue their mandate as democratically elected representatives, and would maintain its role, without disruption, in the negotiation of the bargaining protocol agreement; and interim relief would not grant the entire remedy sought. The panel also dismissed the argument that the interim relief was premature. Accordingly, the panel granted Local 170's request for interim relief and ordered the UA International to refrain from taking any steps to advance the trusteeship proceeding pending adjudication of the Section 10 application.

Sobeys West Inc. (Safeway Operations), BCLRB No. B67/2018 (Reconsideration of No. B179/2017 dismissed) – Employees in the Employer's Willowbrook Safeway store were represented by the United Food and Commercial Workers International Union, Local 1518 except the bakery employees, who were represented by the Bakery, Confectionary, Tobacco Workers and Grain Millers International Union, Local 468. Local 468 members at the store produced baked goods in the bakery both from scratch and by par-baking or baking-off frozen bakery items shipped to the store. When the Employer closed, renovated, and re-opened the Willowbrook store under a new banner, Safeway Extra, the store bakery still had ovens but was no longer equipped for scratch baking, and no scratch baking was performed, only par-baking. The Employer took the position that, as a result, there was no longer an "in-store bakery" within the meaning of Local 468's collective agreement and certification, and therefore Local 468's representation rights at the store had ended. It did not re-employ Local 468 employees in the renovated store, assigning the work to employees represented by Local 1518. The Employer maintained par-baking was a shared duty as between the two unions, not one falling within the exclusive jurisdiction of Local 468. Alternatively, it sought an order consolidating Local 468's bargaining unit with that of Local 1518. The Board allowed Local 468's application alleging the Employer had breached Local 468's representation rights and collective agreement when it failed to re-employ its members in the

converted store. It found Local 468 established there was still an in-store bakery in the converted store and duties within its exclusive jurisdiction were still being performed. The Board also declined to consolidate the two unions' bargaining units, finding the Employer had not established the existing bargaining unit structure was inappropriate.

Venom Industrial Inc., BCLRB No. B72/2018 – The Union applied for certification of a group of employees in the Employer's industrial cleaning business. The Union also filed three unfair labour practice complaints alleging breaches of Sections 6 and 9 of the Code. The Employer raised an objection to the Board's jurisdiction on the basis that the Employer fell within federal jurisdiction. The panel found the work performed by the Employer was vital, integral, and essential to the operations at Vancouver Wharves, a federal undertaking. Accordingly, the panel found the Employer's operations fell under federal jurisdiction and the Union's applications were dismissed.

Best Service Pros Ltd., BCLRB No. B80/2018 – The SEIU applied under Section 142 of the Code to add employees working at BCIT to its existing bargaining unit at Capilano University. The Employer and CLAC objected to the application, claiming they had a collective agreement reached through a voluntary recognition agreement. The SEIU argued the collective agreement could not be held up as a bar to its certification application because the ratification process was not reasonable. The panel found the vote had taken place immediately after the Employer endorsed its relationship with CLAC. As well, there was a rushed presentation of the agreement with no real opportunity for the employees, the majority of whom spoke English as a second language, to assess, consider, discuss, or make inquiries about the choice being made and whether it was what the employees really wanted. While the employees were given the opportunity to ask questions just before the vote, given the overall circumstances and the rushed manner of the ratification process, the panel found this was not enough to say with confidence that the employees were given the opportunity to make inquiries or to assess what had been presented to them. Accordingly, the panel found the ratification process was unreasonable and the ratification votes could not be relied upon to reflect the true wishes of the employees. The panel found the agreement was not a collective agreement under the Code and was therefore not a bar to the SEIU's Section 142 application.

Vancouver Native Health Society, BCLRB No. B84/2018 (Leave for Reconsideration denied in No. B89/2018) – The Union applied for an interim order to prohibit the implementation of the Employer's plan to close its daycare and asked the Board to direct the Employer to rescind termination letters issued to employees until the Board adjudicated the Employer's application under Section 32 of the Code. The panel found interim relief was necessary and appropriate to prevent the frustration of the Union's and employees' statutory rights in the period between the filing of the Union's certification application and the decision on the merits of the Employer's Section 32 application.

Mount Polley Mining Corporation, BCLRB No. B98/2018 (Leave for Reconsideration denied in No. B151/2018) – The Union alleged the Employer breached Section 54 of the Code by failing to give 60 days' notice when it laid off a significant proportion of its workforce. The Employer argued the Board should relieve it of the obligation to provide 60 days' notice under Section 54 because the layoff resulted from circumstances completely outside of its control. In the alternative, the Employer said the 60-day notice requirement should not apply because its only effect would be to increase the layoff notice to individual employees who were already compensated in accordance with the collective agreement and the *Employment Standards Act*. The panel was not persuaded the Employer was unable to comply with the

notice requirements set out in Section 54 for reasons beyond its control. The panel found the Employer did not establish a compelling basis to depart from the Board's policy of awarding damages to individual employees as a remedy for such a breach. The Employer argued employees who chose not to bump into lower classifications should not be entitled to damages for lost wages on the basis they failed to mitigate their losses. However, as the Employer did not assert facts that would lead to a conclusion that any part of that 60-day notice period should be subject to mitigation, the panel declined to order that the damages owing to individual employees as a result of the Employer's breach of Section 54 be reduced.

Sienna-Baltic (Mariposa) Inc., BCLRB No. B115/2018 (Reconsideration of No. B218/2017 allowed) – The Union applied under Section 141 of the Code for leave and reconsideration of a decision dismissing its application under Sections 38 and 139 of the Code for a declaration that the Employers are a common employer and for consolidation of two separate bargaining units for two locations into a single bargaining unit. The reconsideration panel found the original decision focused exclusively on the sixth *IML* factor and gave little or no consideration to the other factors. The reconsideration panel noted that while original panels are entitled to exercise their judgment in weighing the *IML* factors, consideration must be given to all the *IML* factors in weighing them against the Board's industrial stability concerns and in light of the presumption against multiple bargaining units. Because the proceedings had been ongoing since August 2016 and the material facts were not in dispute, the reconsideration panel decided it was appropriate to exercise its remedial discretion to determine the appropriateness question in this case. The panel found that taken together, the *IML* factors favoured a single bargaining unit as they would rationalize and stabilize the bargaining structure between the Union and the Employers. Accordingly, the original decision was varied to find that the presumption against two bargaining units was not rebutted, and a single, all-employee bargaining unit of employees was appropriate. The reconsideration panel also found there was a labour relations purpose in this case for making a common employer declaration to allow for the rationalization of the bargaining structure by combining the two bargaining units of employees of the Employers represented by the Union.

Robert Alan Bogunovic, BCLRB No. B131/2018 (Leave for Reconsideration of No. B92/2018 denied) – The Applicant applied under Section 17 of the Code for an exemption from union membership on the basis of religious belief. He had been a member of the Union for many years and had not previously applied for a religious exemption, despite having religious beliefs during that time. He sought an exception after disagreeing with certain actions by the Union, which he believed demonstrated the threat of cultural Marxism. He stated that Marxist ideologies were diametrically opposed to his religious beliefs. The original panel found that his application arose from his recent ideological disagreement with the Union, and that his ideological views and differences of opinion with the Union did not provide a basis for granting a religious exemption under Section 17. This outcome was upheld on reconsideration. The panel noted that the test for religious exemption under Section 17 is relatively stringent. To be granted an exemption, an applicant's objection must be to trade unions generally, not a particular trade union or its actions. In addition, the Board must be satisfied the objection is predominantly based on religious beliefs, as distinct from other sincerely held personal beliefs. While the Board will consider the applicant's submissions, it will also look at the objective evidence, such as whether the applicant has belonged to a union notwithstanding their religious beliefs, and whether their application was made after a disagreement over a union policy or action. With these considerations in mind, the reconsideration panel found no error in the original panel's analysis and conclusions on the facts of the case, and found the original decision was consistent with Code principles.

Canadian Forest Products Ltd., BCLRB No. B133/2018 (Leave for Reconsideration denied in No. B149/2018) – The Union applied under Section 28 of the Code to represent a bargaining unit of log hauling dependent contractors. The Employer objected to the application and the appropriateness of the proposed bargaining unit on the ground that certifying the unit would not result in viable collective bargaining. The panel found the Employer's argument regarding the viability of the unit and the economic pressure it can bring in collective bargaining was not an independent factor in the community of interest test. The panel found no concerns with the appropriateness of the bargaining unit as the Union sought to represent all dependent contractor log haulers eligible for representation.

Certain Employees of Taplow Ventures Ltd. (Taplow Feeds), BCLRB No. B141/2018 – The panel found that, as a result of the Employer's egregious breaches of the Code, the representation vote was unlikely to disclose the true wishes of the employees. Accordingly, the panel exercised its discretion under Section 33(6) of the Code to refuse to cancel the Union's certification without regard to the result of the representation vote. It ordered that an application for decertification under Section 33(2) may not be made during the 10 months immediately following the decision.

Certain Employees of Sienna-Baltic (Ridgeview) Inc., BCLRB No. B145/2018 (Leave for Reconsideration of No. B122/2018 denied) – Certain Employees applied under Section 141 of the Code for leave and reconsideration of a decision dismissing their application for decertification. After the application for decertification had been filed, the Board issued its decision in a common employer application that had been filed by the Union two years prior to the decertification application. The effect of the common employer decision was that the unit Certain Employees sought to decertify no longer existed. The reconsideration panel found the original panel did not err in dismissing the decertification application as a result of the common employer decision because the decertification application, if successful, would have had the effect of nullifying the result in the common employer decision. The reconsideration panel found the original panel correctly identified the material issue to be decided: what impact, if any, this set of circumstances had on Certain Employees' application. The reconsideration panel found the original panel considered a range of relevant factors, including: Certain Employees were free to file an application for partial decertification at any time under Section 142 of the Code; on the date the decertification application was filed there was a pending application under Section 38 of the Code; the amount of time taken and the number of Board proceedings to adjudicate the Section 38 application; and, that as of the date of the hearing, the bargaining unit had been varied to reflect a new bargaining unit. Accordingly, the application for reconsideration was dismissed.

TAAN Forest Limited Partnership, BCLRB No. B178/2018 – The Union applied under Section 99 of the Code for review of an arbitration award which dismissed a grievance regarding TAAN's use of multiple contractors to perform work on Haida Gwaii. The arbitrator had accepted TAAN's argument that enforcing the collective agreement's restriction against the use of multiple contractors would be discriminatory within the meaning of the *Human Rights Code*. TAAN was owned by the Council of the Haida Nation to provide economic and entrepreneurial opportunities for Haida contractors on Haida Gwaii. The panel held the arbitrator did not err in finding that the Union's refusal to lift the collective agreement restriction against the use of multiple contractors for TAAN was discriminatory, despite the absence of intent to discriminate. With respect to the Union's argument that the arbitrator's award had broad implications for the application of the collective agreement restriction in other similar contexts, the Board disagreed, noting that the award's finding of discrimination turned on an analysis of substantive inequality based on the particular facts of the case.

Pitt River Quarries, BCLRB No. B180/2018 – The Teamsters applied under Section 139(g) of the Code for a declaration that a letter of understanding (the LOU) that had been executed by the Employer and each of the poly-party's constituent union members was a collective agreement in full force and effect insofar as the LOU applied to the Teamsters. The poly-party had been certified by the Board as the exclusive bargaining agent for a bargaining unit employed by the Employer. The Employer argued that the LOU only pertained to the IUOE or alternatively had been terminated by a combination of notice or replacement collective agreements. The panel found the LOU satisfied the Code's definition of a "collective agreement" and pertained to the Teamsters as the Teamsters had signed it and agreed to its terms. With respect to the Employer's assertion that the parties negotiated new terms which superseded the LOU, the panel found the Employer, the IUOE, and Local 1611 had separately and directly negotiated new terms in separate replacement collective agreements. While those replacement collective agreements may have terminated the LOU as between the Employer and the IUOE and/or the Employer and Local 1611, the panel found the Teamsters and the Employer had not concluded a new collective agreement to supersede the LOU, nor had they initiated or been subject to a legal strike or lockout. Accordingly, the panel found the LOU remained a collective agreement in full force and effect between the Teamsters and the Employer.

III. COURT DECISIONS

Georges v. Hospital Employees' Union, 2018 BCSC 145

Georges applied for judicial review of a reconsideration decision dismissing her Section 12 complaint. Georges argued that aspects of the Board's decision were unsubstantiated, irrational, untenable, and unfair. She also asserted the Board engaged in a deliberate campaign to dismiss her complaint and was biased. The Court found none of George's assertions came close to reaching the patently unreasonable test. With respect to the allegations of bias, the Court found that none of the allegations were made in George's submission to the reconsideration panel and on that basis they could be dismissed. In any event, the Court found the petitioner's "extravagant attack on the good faith of the Board and its members [was] unfortunate and unnecessary. There is no evidence whatsoever to support it." The petition was dismissed with costs to the Union.

Lindsay v. British Columbia (Labour Relations Board), 2018 BCSC 732

Lindsay applied for judicial review seeking an order to quash a portion of an original decision. The original decision dealt with the Union's unfair labour practice complaint alleging the termination of Lindsay's employment took place during an organizing drive and without proper cause and alleging the decision to terminate his employment was motivated by anti-union animus. The original panel held there was no certification campaign underway at the time of Lindsay's termination, so the proper cause requirement was not engaged. In the event this decision was wrong, the original panel went on to consider whether the Employer had established proper cause and concluded it had. In reaching this conclusion, the original panel rejected the Union's argument that the Employer failed to fulfil its duties under human rights legislation to make appropriate inquiries regarding Lindsay's disability. Lindsay sought an order on judicial review to quash the portion of the Board's decision where the original panel decided, in the alternative, that the Employer had fulfilled its duties toward him under human rights legislation and thus had proper cause to terminate his employment. Lindsay did not challenge the main finding that the termination did not take place during a Union organizing drive and that it was not motivated by anti-union animus and therefore there was no breach of the Code by his termination.

The Court found the petition was moot – any relief ordered on judicial review would have no practical effects on the rights of the parties. If the Original Decision was undisturbed, there was no controversy remaining. The Court found that Lindsay's desire to pursue a human rights complaint, unimpeded by a potential application by the Employer to have his complaint dismissed, was not a basis to exercise the discretion to hear a case that was moot. The Court noted that judicial review is a review of the decision, which involves determining whether the reasons, taken as a whole, are tenable as support for the decision. That does not mean that every element of the decision-maker's reasoning process must independently pass a test for patent unreasonableness. By asking the Court to parse out an aspect of the decision-maker's alternate reasoning process and find that one aspect patently unreasonable and/or incorrect would offend the basic principles underlying judicial review. Accordingly, the petition was dismissed.

Zakreski v. British Columbia Public School Employers' Association, 2018 BCCA 43
(Leave to appeal to the Supreme Court of Canada denied December 20, 2018)

Zakreski appealed an order dismissing her petition for judicial review, pursuant to Rule 9-5(1) of the Supreme Court Civil Rules, on the basis that it was plain and obvious the petition was bound to fail. Zakreski also applied to admit new evidence on appeal. The Court found that patent unreasonableness was the correct standard of review and the chambers judge had applied the patent unreasonableness test correctly. The Court also found the chambers judge had correctly answered the question that it was plain and obvious the petition for judicial review was bound to fail because the petition, in substance, sought to attack the arbitration award or the original decision, which were not decisions the Court had the jurisdiction to review. To the extent the petition for judicial review could be characterized as impugning the reconsideration decision, there was no arguable case that it was patently unreasonable in any relevant respect. Therefore, it was plain and obvious the petition was bound to fail. The application to admit new evidence was dismissed as it did not meet the test for new evidence as it could have been tendered to the arbitrator and it was not sufficiently material to the matters in dispute so as to have likely affected the outcome, either at arbitration or on judicial review. Further, the Court held it would decline to exercise its discretion to admit any of the evidence on a judicial review, which is generally based on the record before the tribunal. The appeal was dismissed with costs.

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EXPLANATORY NOTES TO TABLES

The following tables provide an analysis of the applications filed and disposed of in 2018. In some cases, statistics from other years are provided for comparative purposes.

As of 2005, Table 1 of the *LRB Annual Report* includes applications and complaints “Filed Previous” and “Remainder Active”. These figures help provide an overview of the active or current caseload at the Labour Relations Board.

Statistical Tables Definitions:

- **Application / Complaint:** a section or subsection of the *Labour Relations Code*. A 'case' may be comprised of more than one application or complaint (section);
- **Filed in Previous Year(s):** count of applications / complaints received sometime prior to the report period and not yet disposed of at January 1 of the report period;
- **Filed in Current Year:** count of applications / complaints received in the report period;
- **Disposed of - Current:** count of applications / complaints with a final disposition in the report period (includes applications / complaints Not Proceeded With, Withdrawn, Settled, Granted, Dismissed and Other);
- **Open at Year End:** count of applications / complaints received sometime during or prior to the report period and open (not yet disposed of) at the end of the report period. These applications / complaints may be counted as Filed in Current Year or Filed in Previous Year(s), as applicable (same as column heading for 2005-2007 reports: Remainder Active).

A number of other changes have been made during past years in the statistical base used in some of the categories in Table 1. The changes have been summarized as follows for reference (in date order with most recent appearing first).

Requests for Appointment of a Facilitator

Applications to appoint a Facilitator under Section 53 were counted as applications for the first time in the 2008 Annual Report, but were processed by the Board/Council prior to 2008.

Changes in Report Tables

Tables available in previous years regarding vote information for representation applications, details of Part 5 applications, and details of Mediation Officer appointments were taken out of the Annual Report in 2004. Certification cancellation information (Section 33(2)) was added to Tables 1A, 1B, 2 and 2A as of 2004. Other information previously included in Table 1 footnotes now appears with the relevant table.

Applications for Collective Agreement Arbitration through CAAB

Applications under Sections 86, 87, 104 and 105 were added to the Board's statistics if received on or after January 1, 2003.

Requests for Appointment of a Mediator

Applications to appoint a mediator under Section 74 were counted as applications for the first time in the 2002 Annual Report. Before 2002, the information was in the Table "Analysis of Mediator Appointments".

Complaints of Unfair Labour Practices

Prior to 1989, complaints under Sections 2 or 3 (now Sections 5 or 6) of the legislation were not counted by sub-section. From 1989 to 1996, complaints under each sub-section were counted as one complaint.

In 1996, the Board reverted to the pre-1989 method of counting these complaints. The change affects the statistics published as Sections 2, 3, and 4 of the *Industrial Relations Act* and Sections 5, 6, 7, and 9 of the *Labour Relations Code*.

Stay Applications

Stay of proceedings were counted as applications for the first time in 1993. A footnote has been added to the Miscellaneous category to facilitate comparisons over time.

Applications for Inclusion or Exclusion of Employees from a Bargaining Unit

Prior to 1989, an application for the inclusion or exclusion of employees from a bargaining unit was counted as one application for each employee for which a ruling was made; if the application was withdrawn, it was counted as one application regardless of the number of employees involved. From 1989 on, an application regarding the inclusion or exclusion of employees is counted as one application.

Filing an Order in the Supreme Court of British Columbia

Applications to file orders in the Supreme Court were counted as applications for the first time in 1989, but were processed by the Board/Council from 1974 up to and including 1988.

Order or Opinion Pertaining to Applications under Part 5 (Strikes, Lockouts, Picketing, etc.)

Prior to 1988, each application raising an issue under Part 5 was counted as one application, regardless of the number of sections in issue. From 1988 forward, each section and sub-section of Part 5 is counted as a separate application.

GENERAL NOTES

For the convenience of users, the following is a brief description of some of the disposition codes used in Table 1.

- Applications and complaints granted include those where an order is issued, whether a regular order or a consent order. If an application is partially granted, it is included in this category.
- Applications and complaints dismissed include those where no violation is deemed to have occurred, where the application does not conform to statutory or regulatory time limits or where it is determined no further action is warranted.
- Applications and complaints not proceeded with include only those where the applicant has not supplied the Board with sufficient information to process the application. The application is returned but the applicant is free to reapply.
- Applications and complaints that do not require a decision from the Board are designated settled including cases for which the applicant submits a withdrawal.

It is important to note when using these statistics that the work content embodied in individual applications varies widely, both among different categories of applications and among applications in the same category. The work content of the administrative, investigative, and decision-making functions can vary widely as well, from category to category and from application to application.

Type of Application / Complaint	Year	Filed in Previous Year(s)	Filed in Current Year	Disposed of - Current							Open at Year End	Hearing Held
				Total Disposed of	Not Proceeded With	Withdrawn	Settled	Granted	Dismissed	Other		
Complaints of Unfair Labour Practices <i>Complaints Regarding Internal Union Affairs (s.10)</i>	2018	0	9	3	1	2	0	0	0	0	6	0
	2017	0	9	9	0	0	5	0	4	0	0	3
<i>Complaints Regarding Duty to Bargain in Good Faith (s.11)</i>	2018	6	20	17	1	0	15	1	0	0	9	3
	2017	8	21	23	0	0	20	2	1	0	6	2
<i>Complaints Regarding Duty of Fair Representation (s.12)</i>	2018	11	90	79	32	0	6	2	39 ¹	0	22	0
	2017	21	84	94	42	0	4	2	46 ²	0	11	2
<i>Other Unfair Labour Practice Complaints (ss.5 - 9)³</i>	2018	22	169	159	1	0	130	11	17	0	32	59
	2017	17	117	112	0	0	91	11	10	0	22	19
Religious Exemption (s.17)	2018	1	2	3	0	0	0	2	1	0	0	0
	2017	0	2	1	0	0	0	1	0	0	1	0
Certification Applications (ss.18, 19 and 28)	2018	2	116	106	2	26	0	58	20	0	12	96
	2017	13	91	102	4	14	0	58	26	0	2	97
Certification Variances (ss.28 and 142)	2018	8	161 ⁴	151 ⁵	9	17	0	122	3	0	18	28
	2017	29	151 ⁶	172 ⁷	7	7	0	150	8	0	8	24

¹ 17 complaints filed under the *Labour Relations Code* were dismissed because no *prima facie* case was found.

² 22 of the 46 dismissed complaints filed under the *Labour Relations Code* were dismissed because no *prima facie* case was found.

³ In 1996, the Board changed the method of counting complaints under Sections 5 and 6 of the *Labour Relations Code*. Figures in this category reported prior to 1996 cannot be compared to figures in this category reported from 1996 to present.

⁴ Includes five partial decertification applications.

⁵ Includes five partial decertification applications. See TABLE 3.

⁶ Includes five partial decertification applications.

⁷ Includes five partial decertification applications. See TABLE 3.

**TABLE 1: Applications and Complaints Filed and Disposed of in 2018
(including comparative figures for 2017)**

Type of Application / Complaint	Year	Filed in Previous Year(s)	Filed in Current Year	Disposed of - Current							Open at Year End	Hearing Held
				Total Disposed of	Not Proceeded With	Withdrawn	Settled	Granted	Dismissed	Other		
Certification Cancellations (ss.33 and 142) ¹	2018	5	31	30	3	1	0	20	6	0	6	21
	2017	5	49	49	3	5	0	32	9	0	5	29
Cancellation of a Voluntary Recognition (s.34)	2018	3	3	5	0	0	0	1	4	0	1	2
	2017	0	6	3	0	0	0	3	0	0	3	2
Permission to Alter Conditions of Employment (ss.32 and 45)	2018	0	5	4	0	0	1	3	0	0	1	1
	2017	0	1	1	0	0	1	0	0	0	0	0
Alleged Unlawful Alteration of Employment Terms and Conditions (ss.32 and 45)	2018	2	12	12	0	0	12	0	0	0	2	1
	2017	0	12	10	0	0	9	1	0	0	2	1
Declaration of Successor Status <i>Successor Employer (s.35)</i>												
	2018	6	48	43	4	2	0	35	2	0	11	3
	2017	14	55	63	3	4	0	48	8	0	6	8
<i>Successor Union (s.37)²</i>	2018	0	34	27	0	0	0	27	0	0	7	0
	2017	6	43	49	9	2	0	38 ³	0	0	0	0
Common Employer (s.38)	2018	4	11	8	1	5	0	2	0	0	7	3
	2017	7	14	17	0	3	1	6	7	0	4	8
Accreditation Applications (s.43)	2018	0	0	0	0	0	0	0	0	0	0	0
	2017	0	0	0	0	0	0	0	0	0	0	0

¹ See TABLE 3.

² The workload required to process applications in this category varies widely. The Board may receive one application per collective bargaining relationship or one application covering several collective bargaining relationships. This report reflects the number of applications filed and disposed of regardless of the number of collective bargaining relationships affected by those applications (any notable discrepancies are listed below).

³ 5 applications granted affecting 24 collective bargaining relationships.

**TABLE 1: Applications and Complaints Filed and Disposed of in 2018
(including comparative figures for 2017)**

Type of Application / Complaint	Year	Filed in Previous Year(s)	Filed in Current Year	Disposed of - Current							Open at Year End	Hearing Held
				Total Disposed of	Not Proceeded With	Withdrawn	Settled	Granted	Dismissed	Other		
Accreditation Variances (ss.43 and 142)	2018	2	8	9	0	0	0	9	0	0	1	0
	2017	0	9	7	0	0	0	7	0	0	2	0
Accreditation Cancellations (s.142)	2018	0	0	0	0	0	0	0	0	0	0	0
	2017	0	0	0	0	0	0	0	0	0	0	0
Alleged Failure to Execute or Comply with a Collective Agreement (s.49)	2018	2	7	7	0	1	3	1	2	0	2	4
	2017	0	8	6	0	0	4	1	1	0	2	1
Facilitator (s.53(5))	2018	8	23	22	0	0	0	n/a	n/a	22 ¹	9	0
	2017	5	12	9	0	0	0	n/a	n/a	9 ¹	8	0
First Collective Agreement (s.55)	2018	0	6	4	0	0	2	n/a	n/a	2 ²	2	0
	2017	1	6	7	0	0	6	n/a	n/a	1 ³	0	0
Appointment of a Mediation Officer (s.74)	2018	22	84	80	0	5	72	n/a	n/a	3 ⁴	26	0
	2017	14	80	72	0	2	64	n/a	n/a	6 ⁵	22	0

¹ Facilitator appointed.

² For two cases the parties were allowed to exercise their right to strike or lockout.

³ For one case the parties were allowed to exercise their right to strike or lockout.

⁴ For one case the unit was decertified and for two cases the business closed.

⁵ For five cases no meetings were held and for one case no agreement was reached.

**TABLE 1: Applications and Complaints Filed and Disposed of in 2018
(including comparative figures for 2017)**

Type of Application / Complaint	Year	Filed in Previous Year(s)	Filed in Current Year	Disposed of - Current							Open at Year End	Hearing Held
				Total Disposed of	Not Proceeded With	Withdrawn	Settled	Granted	Dismissed	Other		
Collective Agreement Arbitration Bureau (CAAB) ¹ <i>Section 86</i> (Appointment of Arbitrator)	2018	6	56	59	0	26	6	n/a	n/a	27 ²	3	n/a
	2017	12	46	52	1	25	6	n/a	n/a	20 ²	6	n/a
	2018	0	8	8	0	0	6	n/a	n/a	2 ³	0	n/a
<i>Section 87</i> (Appointment of Settlement Officer)	2017	1	17	18	0	0	13	n/a	n/a	5 ³	0	n/a
	2018	12	196	204	2	50	24	n/a	n/a	128 ⁴	4	n/a
<i>Section 104</i> (Appointment of Arbitrator)	2017	8	239	235	3	68	30	n/a	n/a	134 ⁴	12	n/a
	2018	0	1	1	0	0	1	n/a	n/a	0 ⁵	0	n/a
<i>Section 105</i> (Appointment of Mediator-Arbitrator)	2017	0	0	0	0	0	0	n/a	n/a	0 ⁵	0	n/a
	2018	18	261	272	2	76	37 ⁶	n/a	n/a	157	7	n/a
Combined CAAB Sections	2017	21	302	305	4	93	49 ⁷	n/a	n/a	159	18	n/a
	2018	0	28	25	0	0	16	9	0	0	3	15
Part 5 Applications (Strikes, Lockouts, Picketing, etc.) (ss.57-67 and ss.69-70)	2017	4	47	51	0	0	30	18	3	0	0	15

¹ These applications were included in the *LRB Annual Report* for the first time in 2003. Beginning in 2004, figures for individual sections as well as the combined totals for CAAB (ss. 86, 87, 104, 105) are included in this report. In general, for this category, Withdrawn indicates withdrawal / settlement prior to any appointments and Settled indicates withdrawal / settlement subsequent to the appointment of a Settlement Officer but prior to appointment of an Arbitrator. See individual section notes regarding Other dispositions.

² Arbitrator appointed.

³ Matter referred back to the parties under Section 87(3).

⁴ Arbitrator appointed. For 32 cases in 2018 and 16 cases in 2017, a Settlement Officer was appointed in addition to an Arbitrator.

⁵ Mediator-Arbitrator appointed.

⁶ A Settlement Officer was appointed for 72 CAAB applications disposed of in 2018: 37 disposed of as Settled and 35 disposed of as Other. Of these 72 applications, 43 (60%) resulted in full and final settlement.

⁷ A Settlement Officer was appointed for 73 CAAB applications disposed of in 2017: 49 disposed of as Settled and 24 disposed of as Other. Of these 73 applications, 57 (78%) resulted in full and final settlement.

**TABLE 1: Applications and Complaints Filed and Disposed of in 2018
(including comparative figures for 2017)**

Type of Application / Complaint	Year	Filed in Previous Year(s)	Filed in Current Year	Disposed of - Current							Open at Year End	Hearing Held
				Total Disposed of	Not Proceeded With	Withdrawn	Settled	Granted	Dismissed	Other		
Replacement Workers (s.68)	2018	0	6	6	0	0	5	1	0	0	0	2
	2017	2	6	8	0	0	5	2	1	0	0	4
Essential Service Designations (s.72)	2018	5	16	18	0	0	12	6	0	0	3	0
	2017	1	29	25	0	0	9	16	0	0	5	2
Last Offer Vote (s.78)	2018	0	8	8	0	0	0	8 ¹	0	0	0	0
	2017	0	13	13	0	1	0	12 ²	0	0	0	0
Review of Arbitration Award (s.99)	2018	6	32	26	1	0	0	3	22	0	12	0
	2017	8	23	25	0	1	0	2	22	0	6	1
Interim Order (s.133(5))	2018	1	15	13	0	2	4	3	4	0	3	7
	2017	1	5	5	0	1	2	1	1	0	1	0
File an Order in Supreme Court (s.135)	2018	0	12	11	0	4	0	7	0	0	1	4
	2017	2	16	18	0	10	0	8	0	0	0	0
Interpretation of the Legislation as it Applies to the Collective Bargaining Relationship (s.139)	2018	7	34	34	1	16	1	0	0	16 ³	7	6
	2017	7	28	28	2	12	2	1	1	10 ³	7	9
Reconsideration of a Decision (s.141)	2018	13	42	46	0	2	0	7	37 ⁴	0	9	5
	2017	5	48	40	0	0	0	7	33 ⁵	0	13	1

¹ In six cases the final offer was rejected; and in two cases the final offer was accepted.

² In six cases the final offer was rejected; and in five cases the final offer was accepted; and in one case the application was withdrawn prior to the vote.

³ Ruling made.

⁴ For 34 of the 37 applications dismissed in 2018, leave to apply was denied.

⁵ For 33 applications dismissed in 2017, leave to apply was denied.

**TABLE 1: Applications and Complaints Filed and Disposed of in 2018
(including comparative figures for 2017)**

Type of Application / Complaint	Year	Filed in Previous Year(s)	Filed in Current Year	Disposed of - Current							Open at Year End	Hearing Held
				Total Disposed of	Not Proceeded With	Withdrawn	Settled	Granted	Dismissed	Other		
Declaratory Opinion (excluding Declaratory Opinions Pertaining to Part V of the Legislation) (s.143)	2018	0	1	1	0	0	1	0	0	0	0	0
	2017	0	2	2	0	0	0	1	1	0	0	1
Miscellaneous	2018	8	61 ¹	50 ²	2	5	11	23	9	0	19	6
	2017	11	66 ³	69 ⁴	1	5	15	41	7	0	8	10
Total	2018	162	1355	1279	60	164	328	361	166	200	238	266⁵
	2017	202	1355	1395	75	160	317	469	189	185	162	239⁶

NOTE: The sections quoted are from the *Labour Relations Code* unless otherwise indicated.

¹ Includes five stay applications.

² Includes five stay applications (four were dismissed; one was withdrawn).

³ Includes three stay applications.

⁴ Includes three stay applications (two were dismissed; one was not proceeded with).

⁵ 266 applications disposed of in 2018 were heard sometime during the process. In 2018, the Board held 197 hearings (including 137 expedited hearings to deal with certification, expanded bargaining unit, and decertification applications), some of which dealt with multiple applications and for some of which, the applications had not been disposed of by the end of 2018.

⁶ 239 applications disposed of in 2017 were heard sometime during the process. In 2017, the Board held 178 hearings (including 128 expedited hearings to deal with certification, expanded bargaining unit, and decertification applications), some of which dealt with multiple applications and for some of which, the applications had not been disposed of by the end of 2017.

TABLE 1A: Certification Applications and Certification Cancellations Under s. 33(2) Granted in 2018 - Analyzed by Industry				
Type of Industry	Certification Applications		Certification Cancellations ¹	
	Number of Applications Granted	Number of Employees ²	Number of Applications Granted	Number of Employees ³
Accommodation and Food Services	2	85	1	13
Administrative and Support, Waste Management and Remediation Services	4	70	0	0
Agriculture, Forestry, Fishing and Hunting	1	7	0	0
Arts, Entertainment and Recreation	2	34	0	0
Construction	6	60	5	34
Educational Services	2	79	0	0
Health Care and Social Assistance	15	868	0	0
Information and Cultural Industries	1	14	0	0
Manufacturing	7	633	5	51
Mining, Quarrying and Oil and Gas Extraction	0	0	2	95
Public Administration	1	19	0	0
Real Estate and Rental and Leasing	1	15	0	0
Retail Trade	5	144	2	62
Transportation and Warehousing	4	108	1	4
Other Services (except Public Administration)	7	87	1	13
Total	58	2223	17	272

¹ In order to accurately reflect the number of employees per granted application, only those certification cancellation applications brought by employees under s. 33(2) of the *Labour Relations Code* are included in this table. Thus, the total number of applications granted may not equal the corresponding figure from the Certification Cancellations category in TABLE 1. See TABLE 3 for a breakdown of Certification Cancellations by applicant type.

² The number of employees on an application for certification is based on the information supplied by the union on the application form. Variances do occur between the time of application and the time of disposition of the application.

³ The number of employees on an application to cancel a certification is based on the number of eligible voters on the Return of Poll signed by the returning officer.

TABLE 1B: Certification Applications and Certification Cancellations Under s. 33(2) Filed / Granted in 2018 - Analyzed by Union

UNION NAME (Names have been abbreviated: where possible, the commonly used, shortened form appears)	Certification Applications		Certification Cancellations ¹	
	Number of Applications Filed ²	Number of Applications Granted	Number of Applications Filed ²	Number of Applications Granted
BCGEU (Not including Brewery Workers)	9	4	0	0
Brewery Workers	0	0	2	1
Boilermakers	1	0	1	1
Canada West Construction Union (CWCU)	2	1	0	0
Carpenters (not including CMAW or CAST councils)	0	0	1	1
CMAW Bargaining Council	3	1	0	0
CAW	0	0	1	1
CLAC	5	3	1	1
CUPE	3	3	0	0
Food and Commercial Workers (UFCW)	1	1	2	1
Health Sciences Association (HSA)	3	2	0	0
Hospital Employees Union (HEU)	13	8	1	0
Hotel Employees (UNITE HERE)	4	3	0	0
IATSE	2	1	0	0
Iron Workers	2	0	0	0
Labourers	3	3	0	0
Longshore (ILWU)	4	1	0	0
Machinists and Aerospace Workers	7	4	3	3
Nurses (BCNU)	3	1	0	0
Office and Professional Employees (OPEIU/COPE)	7	6	0	0
Operating Engineers (IUOE)	4	2	2	1
Plumbers & Refrigeration Workers	2	2	1	1
Post-Secondary Educators (FPSE)	1	1	0	0

TABLE 1B: Certification Applications and Certification Cancellations Under s. 33(2) Filed / Granted in 2018 - Analyzed by Union				
UNION NAME (Names have been abbreviated: where possible, the commonly used, shortened form appears)	Certification Applications		Certification Cancellations ¹	
	Number of Applications Filed ²	Number of Applications Granted	Number of Applications Filed ²	Number of Applications Granted
PPWC	4	0	0	0
Retail Wholesale Union (RWU)	1	1	0	0
Service Employees (SEIU)	3	1	0	0
SMART	0	0	1	1
Steelworkers	15	3	2	2
Teamsters	7	4	5	3
UNIFOR	5	2	0	0
Total	114	58	23	17

¹ Only those certification cancellation applications brought by employees under s. 33(2) of the *Labour Relations Code* are included in this table. Thus, the number of applications filed and/or granted may not equal the corresponding figure from the Certification Cancellations category in TABLE 1. See TABLE 3 for a breakdown of certification cancellations by applicant type.

² Does not include applications that were not proceeded with (NPW) due to incorrect or insufficient information supplied on the application.

TABLE 2: Certification Applications and Certification Cancellations Under s. 33(2) Filed / Decided in 2018					
Type of Application		Filed ¹	Granted	Dismissed	Total Decided
Total Certification Applications	Number of Applications	114	58	20	78
	Number of Employees ²	5749	2223	1095	3318
<i>Certification Applications for Previously Unorganized Employees</i>	Number of Applications	103	53	19	72
	Number of Employees	4683	1569	1085	2654
<i>Certification Applications for Organized Employees</i>	Number of Applications	7	4	0	4
	Number of Employees	1026	644	0	644
Total Applications to Cancel a Certification Brought by Employees under s. 33(2) ³	Number of Applications	23	17	3	20
	Number of Employees ⁴	704	272	357	629

¹ Does not include applications that were not proceeded with (NPW) due to incorrect or insufficient information supplied on the application.

² The number of employees on an application for certification is based on the information supplied by the union on the application form. Variances do occur between the time of application and the time of disposition of the application. The estimate could include some multiple counting where more than one union applied to cover the same group of employees, or where the same union made alternative applications to cover the same group of employees.

³ Since only those certification cancellation applications brought by employees under s. 33(2) of the *Labour Relations Code* are included in this table, the number of applications filed and/or decided may not equal the corresponding figure from the Certification Cancellations category in TABLE 1. See TABLE 3 for a breakdown of certification cancellations by applicant type.

⁴ The number of employees on an application to cancel a certification is based on the number of eligible voters on the Return of Poll signed by the returning officer. The number of employees on an application for which a Return of Poll is either not available or not applicable (in particular, for the number of applications Filed) is based on the bargaining unit size listed in the report of the Industrial Relations Officer. This may include some multiple counting where more than one application is received to cancel the same certification.

TABLE 2A: Certification Applications and Certification Cancellations Under s. 33(2) Granted in 2018 - Analyzed by Size of Bargaining Unit

Number of Employees	Certification Applications		Certification Cancellations ¹	
	Number of Applications	Percentage of Applications	Number of Applications	Percentage of Applications
1 to 10	17	29.3%	9	52.9%
11 to 20	15	25.9%	4	23.5%
21 to 30	8	13.8%	2	11.8%
31 to 40	6	10.3%	0	0.0%
41 to 50	3	5.2%	1	5.9%
51 to 60	2	3.5%	0	0.0%
61 to 70	1	1.7%	0	0.0%
71 to 80	1	1.7%	0	0.0%
81 to 90	0	0.0%	1	5.9%
91 to 100	1	1.7%	0	0.0%
101 to 200	1	1.7%	0	0.0%
Over 200	3	5.2%	0	0.0%
Total	58	100.00%	17	100.00%

¹ Since only those certification cancellation applications brought by employees under s. 33(2) of the *Labour Relations Code* are included in this table, the number of applications granted may not equal the corresponding figure from the Certification Cancellations category in TABLE 1. See TABLE 3 for a breakdown of certification cancellations by applicant type.

TABLE 2B: Certification Applications Granted Between 1994 and 2018 by Size of the Bargaining Unit							
Year	Number and Percentage of Certification Applications						
	1 to 20 Employees		21 to 50 Employees		Over 50 Employees		Total
1994	292	66.9%	86	19.7%	59	13.4%	437
1995	253	64.4%	100	25.4%	40	10.2%	393
1996	312	72.5%	80	18.6%	38	8.9%	430
1997	285	69.6%	71	17.4%	53	13.0%	409
1998	233	67.0%	65	18.7%	50	14.3%	348 ¹
1999	239	65.8%	65	17.9%	59	16.3%	363 ²
2000	169	64.3%	45	17.1%	49	18.6%	263
2001	105	58.0%	40	22.1%	36	19.9%	181
2002	62	70.4%	13	14.8%	13	14.8%	88
2003	54	72.0%	11	14.7%	10	13.3%	75 ³
2004	58	65.9%	17	19.3%	13	14.8%	88
2005	170	63.9%	62	23.3%	34	12.7%	266 ⁴
2006	58	65.2%	21	23.6%	10	11.2%	89
2007	72	59.5%	26	21.5%	23	19.0%	121
2008	62	64.6%	13	13.5%	21	21.9%	96
2009	43	48.9%	20	22.7%	25	28.4%	88
2010	42	58.3%	13	18.1%	17	23.6%	72
2011	34	58.6%	15	25.8%	9	15.5%	58 ⁵
2012	37	55.2%	15	22.4%	15	22.4%	67
2013	78	63.5%	30	24.4%	15	12.1%	123
2014	38	50.7%	19	25.3%	18	24.0%	75
2015	37	60.7%	15	24.6%	9	14.7%	61
2016	28	50.9%	11	20.0%	16	29.1%	55
2017	34	58.6%	12	20.7%	12	20.7%	58
2018	32	55.2%	17	29.3%	9	15.5%	58

¹ One single certification application resulted in the issuance of two individual certifications; thus the total of certifications granted in 1998 amounts to 349.

² One single certification application resulted in the issuance of two individual certifications; thus the total of certifications granted in 1999 amounts to 364.

³ Five separate certification applications for the same employee bargaining unit were granted and simultaneously consolidated resulting in the issuance of a single certification; thus the total number of new certifications granted for a bargaining unit size between 1 and 20 employees is 50 and the total number of certifications granted in 2003 is 71.

⁴ A number of applications to certify separate units were amended at some time in the process prior to disposition to certify a consolidated unit(s). A further application was granted and two certifications issued as a result. In total, in 2005, 266 certification applications were granted resulting in 249 certifications being issued.

⁵ Three certification applications to certify separate units were amended at some time in the process prior to disposition to certify a consolidated unit (a single certification was issued as a result). In total, in 2011, 58 certification applications were granted resulting in 56 certifications being issued.

Type of Applicant (and Application)	Year	Granted	Dismissed	Not Proceeded With	Withdrawn	Total
Filed by Employee(s) (s. 33)	2018	17	3	3	1	24
	2017	20	6	3	5	34
Filed by Employee(s) (s. 142 - Partial Decertification) ¹	2018	2	1	1	1	5
	2017	1	3	0	1	5
Filed by Employer(s)	2018	1	3	0	0	4
	2017	12	3	0	0	15
Filed by Union(s)	2018	1	0	0	0	1
	2017	0	0	0	0	0
Filed Jointly by Employer(s) and Union(s)	2018	1	0	0	0	1
	2017	0	0	0	0	0
Total	2018	22	7	4	2	35
	2017	33	12	3	6	54

¹ Applications filed under s. 142 for Partial Decertification are included in TABLE 1 under the category Certification Variances; therefore, subtracting the number of applications filed by employees under s. 142 from the Total number of applications disposed of in TABLE 3 will equal the number of applications disposed of in TABLE 1 for the Certification Cancellations category.

Type Of Application Being Reconsidered	Leave Denied	Dismissed	Granted	Withdrawn	Not Proceeded With	Total
Duty of Fair Representation (s. 12)	12	0	2	0	0	14
Other Unfair Labour Practice Complaint (ss. 5-9)	5	0	0	0	0	5
Religious Exemption	1	0	0	0	0	1
Certification	4	0	0	1	0	5
Certification Variance	2	0	0	0	0	2
Certification Cancellation	1	0	0	0	0	1
Declaration of Employer Successor Status	0	2	2	0	0	4
Common Employer	0	0	2	0	0	2
Alleged Illegal Strikes, Lockouts, Picketing, ect. (ss. 55-70)	0	0	0	1	0	1
Review of Arbitration Award	7	0	1	0	0	8
Interpretation of the Legislation as it Applies to the Collective Bargaining Relationship (s.139)	1	1	0	0	0	2
Adjustment Plan (s. 54)	1	0	0	0	0	1
TOTAL	<u>34</u>	<u>3</u>	<u>7</u>	<u>2</u>	<u>0</u>	<u>46</u>

Appellant	Leave Denied	Dismissed	Granted	Withdrawn	Not Proceeded With	Total
Employer(s)	9	1	0	0	0	10
Union(s)	7	2	4	2	0	15
Employee(s)	18	0	3	0	0	21
TOTAL	<u>34</u>	<u>3</u>	<u>7</u>	<u>2</u>	<u>0</u>	<u>46</u>

**TABLE 5: Reconsideration Outcomes
from 2008 and 2018**

Year	Total Applications Disposed of	Withdrawn / Not Proceeded With	Processed to a Final Decision	Resulted in a Revision of the Original Decision	%
2008	47	6	41	6	15%
2009	48	4	44	8	18%
2010	51	2	49	10	20%
2011	45	2	43	6	14%
2012	59	2	57	15	26%
2013	47	3	44	14	32%
2014	57	2	55	14	25%
2015	55	0	55	9	16%
2016	43	0	43	6	14%
2017	40	0	40	7	18%
2018	46	2	44	7	16%

**TABLE 6: Review of Arbitration Award
Outcomes from 2008 and 2018**

Year	Total Applications Disposed of	Withdrawn / Not Proceeded With	Processed to a Final Decision	Resulted in a Revision of the Original Decision	%
2008	37	7	30	7	23%
2009	39	6	33	4	12%
2010	31	5	26	8	31%
2011	35	8	27	2	7%
2012	59	4	55	7	13%
2013	15	1	14	1	7%
2014	33	4	29	1	3%
2015	28	2	26	5	19%
2016	17	0	17	5	29%
2017	25	1	24	2	8%
2018	26	1	25	3	12%

TABLE 7: Applications and Complaints Filed in 2018 - Analyzed by Applicant Type

Type of Application	Filed by Employer(s)	Filed by Union(s)	Filed by Employee(s)	Other	Total ¹
Complaints of Unfair Labour Practices					
Complaints Regarding Internal Union Affairs	0	1	8	0	9
Complaints Regarding Duty to Bargain in Good Faith	5	15	0	1	20
Complaints Regarding Duty of Fair Representation	1	0	89	0	90
Other Unfair Labour Practice Complaints	5	158	6	0	169
Religious Exemption	0	0	2	0	2
Certification Application	1	115	0	0	116
Certification Variance	30	133	6	0	161
Certification Cancellation	5	2	26	0	31
Cancellation of a Voluntary Recognition	1	0	2	0	3
Permission to Alter Conditions of Employment	5	0	0	0	5
Alleged Unlawful Alteration of Employment Terms and Conditions	0	12	0	0	12
Declaration of Successor Status					
Successor Employer	22	26	0	0	48
Successor Union	0	34	0	0	34
Common Employer	0	11	0	0	11
Accreditation Variances	7	0	0	1	8
Alleged Failure to Execute or Comply with a Collective Agreement (s. 49)	1	6	0	0	7
Facilitator (s. 53(5))	13	21	0	0	23
First Collective Agreement	4	2	0	0	6
Appointment of a Mediation Officer	42	43	0	0	84
CAAB Applications					
<i>Section 86 (Appointment of Arbitrator)</i>	8	48	0	0	56
<i>Section 87 (Appointment of Settlement Officer)</i>	1	7	0	0	8
<i>Section 104 (Appointment of Arbitrator)</i>	6	190	0	0	196
<i>Section 105 (Appointment of Mediator-Arbitrator)</i>	1	1	0	0	1
<i>Combined CAAB Sections</i>	16	246	0	0	261
Part V Applications (Strikes, Lockouts, Picketing, etc.)	21	7	0	0	28

TABLE 7: Applications and Complaints Filed in 2018 - Analyzed by Applicant Type

Type of Application	Filed by Employer(s)	Filed by Union(s)	Filed by Employee(s)	Other	Total ¹
Replacement Workers	0	6	0	0	6
Essential Service Designations	0	0	0	16	16
Last Offer Vote	8	0	0	0	8
Review of Arbitration Award	9	10	13	0	32
Interim Order	2	13	0	0	15
File Order in Supreme Court	6	5	1	0	12
Interpretation of the Legislation as it Applies to the Collective Bargaining Relationship	7	26	1	0	34
Reconsideration of a Decision	10	15	17	0	42
Declaratory Opinion (Excluding Declaratory Opinions Pertaining to Part V of the Legislation)	1	0	0	0	1
Miscellaneous	22	41	1	3	61
TOTAL	<u>244</u>	<u>948</u>	<u>172</u>	<u>21</u>	<u>1355</u>

¹ Totals by applicant do not equate with total applications because certain applications were filed jointly, by more than one type of party.

TABLE 8: Time Required to Process Certain Applications Disposed of in 2018			
Type of Application	Number of Applications Disposed of ¹	Average Number of Days	Median Number of Days
Unfair Labour Practice Complaints Under s.6 of the <i>Labour Relations Code</i> Where a Dismissed Employee is Involved	36	68	42
Complaints Regarding Duty of Fair Representation (s.12)	47	93	86
Certification Applications (ss.18, 19, 28)	104	32	12
Certification Cancellations (s.33(2))	21	27	13
Declaration of Successor Employer (s.35)	39	49	34
Common Employer (s.38)	7	85	45
Review of Arbitration Award (s.99)	25	139	119
Interpretation of the Legislation as it Applies to the Collective Bargaining Relationship (s.139)	33	80	62
Reconsideration of a Decision (s.141)	46	108	54

¹ Does not include applications that were not proceeded with (NPW) due to incorrect or insufficient information supplied on the application.

TABLE 9: Officer Assignments Completed in 2018

Assignment Outcome							
Type of Application / Complaint	Settled/ Withdrawn	Resolved Issues / Assisted at Hearing	Narrowed Issues / Assisted at Hearing	To Adjudication (No Informal)	Report of Investigation	Other ¹	Total
Part V (ss.57 to 70) ²	9	0	2	0	0	2	13
Unfair Labour Practice (ss.5 to 11) ³	46	0	0	12	0	4	62
Certification & Variance to Expand the Bargaining Unit ⁴	3	25	34	2	0	0	64
Decertification & "Partial Decertification" ⁵	0	1	5	0	0	0	6
Collective Agreement Arbitration (CAAB) (ss.86, 87, 104, 105) ⁶	41	0	0	0	0	28 ⁷	69
Other	<u>11</u>	<u>1</u>	<u>1</u>	<u>1</u>	<u>10</u>	<u>0</u>	<u>24</u>
TOTAL	<u>110</u>	<u>27</u>	<u>42</u>	<u>15</u>	<u>10</u>	<u>34</u>	<u>238</u>

¹ Includes Consent Order issued.

² Includes complaints regarding strikes, lockouts, picketing, etc.

³ Excludes duty of fair representation (s.12).

⁴ In reports prior to 2001, the number of certification & expanded bargaining unit applications "Settled / Withdrawn" were included in the "Resolved Issues / Assisted at Hearing" assignment outcome category.

⁵ Prior to 2003 applications for 'partial decertification' were included under "Other" types of applications.

⁶ Reporting of assignments under the Collective Agreement Arbitration provisions of the *Labour Relations Code* first appears in the 2003 annual report.

⁷ Includes 27 assignments closed with matter proceeding to arbitration.

TABLE 10: Requests for Automatic Certification Pursuant to s. 14(4)(f) of the *Labour Relations Code* as a Result of an Alleged Unfair Labour Practice Violation
 (Previously s. 8(4)(e) of the *Labour Relations Code* and the *Industrial Relations Act*)

Year	Requested	Granted
1977	25	1
1978	17	1
1979	25	1
1980	22	0
1981	34	2
1982	15	2
1983	18	0
1984	21	3
1985	16	2
1986	18	2
1987	17	0
1988	10	0
1989	10	0
1990	18	3
1991	20	1
1992	32	6
1993	31	2
1994	31	2
1995	35	0
1996	41	1
1997	52	3
1998	40	0
1999	51	0
2000	21	1
2001	9	0
2002	12	3
2003	13	0
2004	8	1
2005	7	1
2006	8	0
2007	10	1
2008	17	2
2009	16	0

TABLE 10: Requests for Automatic Certification Pursuant to s. 14(4)(f) of the *Labour Relations Code* as a Result of an Alleged Unfair Labour Practice Violation
 (Previously s. 8(4)(e) of the *Labour Relations Code* and the *Industrial Relations Act*)

Year	Requested	Granted
2010	18	1
2011	9	0
2012	9	3 ¹
2013	11	0
2014	18	1
2015	5	1
2016	5	0
2017	3	0
2018	<u>6</u>	<u>0</u>
TOTAL	<u>804</u>	<u>47</u>

These requests relate to *Other Unfair Labour Practice Complaints* and are not included under Applications for Certification.

Note: Figures for 1993 to 1995 were not included in the Annual Reports for these years.

¹ One certification issued as a result of reconsideration.

Table 11: Complaints Regarding Duty of Fair Representation Disposed of Between 2008 and 2018						
Year	Total Applications Disposed of	Not Proceeded With	Settled	Processed to a Final Decision	Granted	Dismissed
2008	70	29	7	34	2	32
2009	96	36	1	59	5	54
2010	82	26	5	51	5	46
2011	74	17	1	56	4	52
2012	75	24	2	49	2	47
2013	55	10	0	45	1	44
2014	67	25	1	41	1	40
2015	77	26	4	47	1	46
2016	77	32	6	39	0	39
2017	94	42	4	48	2	46
2018	79	32	6	41	2	39