

Annual Report 2022-2023

YUKON PUBLIC SERVICE LABOUR RELATIONS BOARD



COMPOSITION OF THE BOARD

Chairperson: Edith Bramwell

Vice-Chairpersons: Marie-Claire Perrault
Amélie Lavictoire

Members: Pierre-Marc Champagne (since March 13, 2023)
Caroline Engmann
Goretti Fukamusenge (since March 13, 2023)
Bryan R. Gray
Patricia Harewood (since March 13, 2023)
Chantal Homier-Nehmé
John G. Jaworski
James Knopp
Audrey Lizotte (since August 8, 2022)
Ian R. Mackenzie
David Orfald
Nancy Rosenberg

Adjudicators: Fazal Bhimji
David Jewitt
Dan Quigley

**REPORT ON THE ADMINISTRATION
OF THE YUKON PUBLIC SERVICE LABOUR RELATIONS ACT
FOR THE FISCAL YEAR ENDING
MARCH 31, 2023**

INTRODUCTION

Under section 6(1) of the Yukon *Public Service Labour Relations Act* (RSY 2002, c 185; “the Act”), the Yukon Public Service Labour Relations Board consists “... of the persons from time to time holding office as full-time members of the Public Service Labour Relations Board, established under the federal act.” The federal act is defined as the *Public Service Labour Relations and Employment Board Act*, which came into force on November 1, 2014, and was later renamed the *Federal Public Sector Labour Relations and Employment Board Act* (S.C. 2013, c. 40, s. 365). Under the federal act, the former Public Service Labour Relations Board was continued as the Federal Public Sector Labour Relations and Employment Board (“the FPSLREB”), an independent quasi-judicial statutory tribunal.

The FPSLREB is an independent, quasi-judicial statutory tribunal that offers dispute-resolution and adjudication services in key labour relations and staffing matters of the federal public sector.

Through its mandate, the FPSLREB is committed to:

- Support a fair staffing environment and harmonious labour relations within the federal public sector.
- Help parties resolve disputes in a fair, impartial, and efficient manner that respects the terms and conditions of employment.
- Eliminate barriers by leveraging technology for adjudication and dispute resolution services to provide increased access to justice across Canada and better serve parties before the Board.

Under an agreement with the Yukon government, the FPSLREB administers the collective bargaining and grievance adjudication systems for the Yukon public service. When performing those functions, the FPSLREB acts as the Yukon Public Service Labour Relations Board (“the Board”).

Two (2) additional members were appointed to the Yukon Public Service Labour Relations Board in the current reporting period.

CASELOAD

In 2022-2023, there were 55 active cases under the *Act*. Of that number, thirty-five (35) cases were carried forward from previous fiscal years and 20 cases were referred in the current fiscal year. Ten (10) cases were closed in 2022-2023 and 45 will be carried forward to 2023-2024.

Grievances

Adjudication refers to any determination made by Board-appointed adjudicators pursuant to the *Act*. It includes the determination of grievances arising from the application or interpretation of collective agreements or arbitral awards or from disciplinary actions or terminations.

Active caseload

There are currently 27 active cases involving grievances referred under the *Act*.

Eight (8) of those cases involve individual grievances relating to the application or interpretation of a collective agreement. Of those, 3 cases relate to the no-discrimination clause, 2 cases relate to hours of work, 2 cases relate to maintaining a respectful workplace, and one case relates to the duty to accommodate and disciplinary measures. Only 1 case was referred in the current fiscal year and the others are, on average, 34-months-old. All 8 cases are awaiting to be scheduled.

Ten (10) of those cases relate to disciplinary grievances. Six (6) of those disciplinary grievances pertain to terminations of employment; of those, 1 is scheduled for a hearing, and the other 5 remain to be scheduled. The remaining 4 disciplinary grievances pertain to suspensions; of those, 1 is being held in abeyance, 1 is awaiting scheduling for a hearing, 1 is settled and awaiting withdrawal, and 1 is scheduled for a hearing.

Nine (9) of those cases involve policy grievances. One (1) is scheduled for mediation and the others (8) are waiting to be scheduled for a hearing.

Closures

Five (5) grievance-related cases were closed in 2022-2023.

A hearing was held for one case involving two grievances related to a termination and disciplinary measures. Following a recommendation from the assigned Board member, the matter was resolved through mediation. A third grievance was settled between the parties prior to the scheduled hearing. Two (2) collective agreement-related grievances were closed due to withdrawal.

Complaints

Active caseload

Two (2) complaints related to the duty of fair representation were referred under the Act.

One (1) complaint remains to be scheduled for a hearing but has been assigned for active case management and the other (1) is pending the outcome of a policy grievance.

Managerial and confidential positions

A person is employed in a managerial or confidential capacity when, due to the nature of the duties they perform, they must meet the criteria established under the *Act* for exclusion from a bargaining unit.

Active caseload

As of March 31, 2023, 16 applications for exclusions were before the Board. Of the 16 applications, 1 is held in-abeyance, 2 remain to be scheduled, and 13 are awaiting a decision.

Closures

Four applications were closed following an order of the Board, while one was closed for administrative reasons.

MEDIATION

When a proceeding is brought before the Board, mediation is offered to help parties resolve their differences without resorting to a formal hearing. The parties may also request the Board's assistance in resolving a dispute before a matter is referred to adjudication.

Mediation is a voluntary and confidential process that provides parties with the opportunity to find their own solutions to issues in dispute. The process is facilitated by an impartial third party who has no decision-making powers, and its outcome creates no precedents.

In 2022-2023, as indicated in the Grievance section of this report, one mediation was held by a Board Member and resulted in the settlement of a case involving two grievances. Another mediation was scheduled for another case and should be held in the next reporting period.

COLLECTIVE BARGAINING

The Board received a request from the parties seeking the appointment of a mediator to assist with the negotiation of their collective agreement. A mediator from the Mediation and Dispute Resolution Services of the Board was appointed in the summer of 2022 and, over a number of sessions held that Fall, was able to assist the parties in significantly reducing the issues in dispute.

In January 2023, the bargaining agent sought from the Chairperson the declaration of an impasse. Following the issuance of that declaration, the bargaining agent requested the establishment of a conciliation board. That request was granted and the conciliation board was established in late March 2023 with hearing dates scheduled in the next fiscal year.