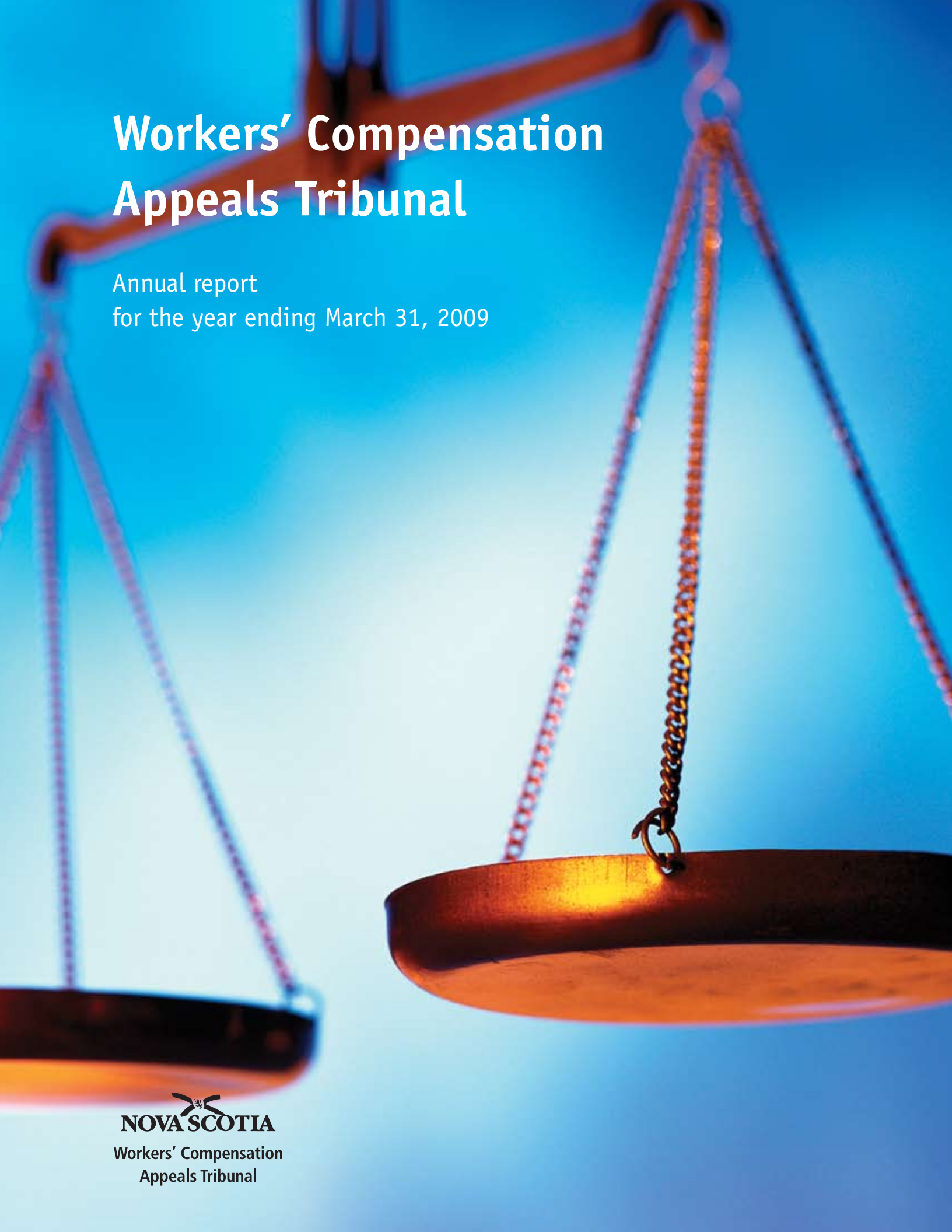

Workers' Compensation Appeals Tribunal

Annual report
for the year ending March 31, 2009

NOVA SCOTIA
Workers' Compensation
Appeals Tribunal

Workers' Compensation Appeals Tribunal

Annual report
for the year ending March 31, 2009

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Appeals Tribunal

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Workers' Compensation Appeals Tribunal

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Cecil P. Clarke
Minister of Justice

Dear Honourable Minister:

The Workers' Compensation Appeals Tribunal is pleased to present its Annual Report for the fiscal year ending March 31, 2009.

Respectfully submitted,

Louanne Labelle

Louanne Labelle
Chief Appeal Commissioner

NOVA SCOTIA
Workers' Compensation Appeals Tribunal

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To Her Honour
The Honourable Mayann E. Francis, O.N.S.
Lieutenant-Governor of Nova Scotia

May It Please Your Honour:

I have the honour to submit the Annual Report of the Workers' Compensation Appeals Tribunal for the fiscal year ending March 31, 2009.

Respectfully submitted,

Cecil P. Clarke
Minister Responsible for Part II of the *Workers' Compensation Act*

Tribunal Personnel 2008–09

Mary Jewers
Supervisor, Office Services (on leave)

Colleen Bennett-Skinner
Executive Assistant to the Chief Appeal Commissioner/
Supervisor, Office Services (temporary)

Diane Smith
Scheduling coordinator

Bernadette Murphy
Secretary

Charlene Downey
Secretary/receptionist

Samantha MacGillivray
Secretary

Appeal Commissioners

Louanne Labelle
Chief Appeal Commissioner

Leanne Rodwell Hayes
Alison Hickey
Glen Johnson
Gary Levine
Brent Levy (beginning February 2009)
Sandy MacIntosh
Andrew MacNeil
Michelle Margolian (departed August 2009)
David Pearson
Andrea Smillie

Special Projects Officer

Tim McInnis (on secondment)

Contents

Executive summary

The Workers' Compensation Appeals Tribunal (the tribunal) hears appeals from final decisions of hearing officers of the Workers' Compensation Board (the board) and determines whether the act bars a right of action against employers. The tribunal is legally and administratively separate from the board and ensures an independent and impartial review of board decisions.

The tribunal also works with several partner agencies within the framework known as the Workplace Safety and Insurance System (WSIS). Partner agencies are the board, the Workers' Advisers Program (WAP), and the Occupational Health and Safety division of the Department of Labour and Workforce Development.

This annual report will highlight the processing and adjudication of appeals as well as the tribunal's participation in joint initiatives with system partners.

Operations overview

Entitlement to chronic pain benefits continued to be the primary issue on appeal at the tribunal during the year 2008–09 (see Figure 9). As anticipated, however, appeal volumes decreased during the year after the board's chronic pain unit completed the adjudication of claims in June 2008. The tribunal received 834 appeals during the year as compared to 976 the previous year. The tribunal issued 762 decisions, also a decrease from the previous year's total of 892. Decision output was affected by the loss of an appeal commissioner part way through the year and a corresponding increase in the workload of remaining appeal commissioners.

The tribunal hears most appeals (74 per cent) by way of oral hearing.

The fair, efficient and timely processing of appeals remained a priority for the tribunal throughout 2008–09. At year-end, 506 appeals were outstanding, as compared to 481 at the end of 2007–08.

Timeliness continued to meet performance expectations, although not to the level in the year previous, as 62 per cent of decisions were released within six months of the date the appeal was received (compared to 70 per cent in 2007–08).

Many workers who appear before the tribunal, particularly workers appealing chronic pain decisions, are unrepresented or had representatives who were not members of the WAP (overall WAP represented 50 per cent of workers and 50 per cent of workers were either not represented or represented by injured worker groups).

Appeal outcomes have remained consistent. The overall overturn rate by the tribunal remained at 39 per cent. This number is affected by the high number of denials in chronic pain appeals. Appeals continue to be filed predominantly by workers (96.9 per cent) rather than by employers.

The tribunal anticipates a continued decrease in appeal volumes due to the completion by the board's internal appeals department (its highest level of adjudication) of decisions dealing with entitlement to chronic pain benefits under the chronic pain regulations.

The tribunal's statistics for 2001 to 2009 evidenced the difficulty in predicting workload. Following completion of the backlog in 2000, appeals remained fairly high until 2004, when there was a marked reduction while chronic pain claims remained on hold pending implementation of new chronic pain regulations. The processing of 7,000 chronic pain claims produced hundreds of appeals that were adjudicated by both the board's internal appeals and the tribunal. The following are appeal volumes for these years (average 868):

2001–02	2002–03	2003–04	2004–05	2005–06	2006–07	2007–08	2008–09
1004	927	890	659	566	1089	976	834

The tribunal's appeal volumes are determined by appeal volumes at the board's internal appeals. Historically, internal appeals deny approximately 70–75 per cent of appeals received. Between 60 and 65 per cent of denials are then appealed to the tribunal.

The board's internal appeals department has indicated that it expects the volume of appeals to normalize following completion of the chronic pain appeals in March 2009. The levels are anticipated to be between 130 and 150 appeals monthly. Therefore, if internal appeals receives 1,800 appeals a year, approximately 1,300 of these would be denied, resulting in 780 appeals to the tribunal.

Appeals to the Court of Appeal decreased slightly during 2008–09. At year end, there remained only 10 appeals at the Court of Appeal.

Of note, the Court of Appeal upheld the tribunal's findings relating to the constitutionality of the chronic pain regulations in so far as they provided for a maximum pain-related impairment of 6 per cent. The court concluded that a worker's Charter rights were not violated as impairment ratings do not award compensation for loss of earnings ability. The worker in question was not treated differently than injured workers without chronic pain. Impairment awards are not based on the impact of an injury on earnings-capacity. As well, there are many caps for impairment ratings, not just for chronic pain.

The Court of Appeal stated that the tribunal correctly performed a Charter analysis:

> It was careful to compare the benefits available to workers, like the appellant, with chronic pain, to benefits to workers without chronic pain. In doing so, it properly took into account the nature of permanent partial disability benefits to all workers, like the appellant, who were injured before 1990.

This past year, in contrast with previous years, the tribunal has not faced constitutional challenges nor major issues involving the interpretation of the chronic pain regulations. However, the tribunal continued to issue a consistent and coherent body of decisions, providing clarity and guidance to adjudicators, injured workers, and employers throughout the system.

Again I would like to recognize this year the individual contributions of all tribunal staff to the efficient and fair resolution of appeals during this past year. Their dedication and commitment ensured that the tribunal maintained not only its efficient operations, but also the standard of quality and consistency expected by all participants.

Interagency cooperation

As Chief Appeal Commissioner, I sit on the Heads of Agencies Committee, which oversees implementation of the WSIS strategic plan. I also meet regularly with the Chief Workers' Adviser, the Manager of Internal Appeals, the Manager of the board's Client Services department, and board legal counsel to discuss issues arising from the adjudication of claims and appeals. This group forms the Issues Resolution Working Group (IRWG), whose mandate is to develop and implement issue resolution initiatives to support improved communication, information sharing, and overall efficiency of the workers' compensation system.

During 2008–09, IRWG collaborated on a document outlining the quality management framework within the Nova Scotia workers' compensation system to assure, control, and improve the quality of claim-related decisions. This document was shared with stakeholders. The Heads of Agencies Committee keeps stakeholders apprised of the efforts of the IRWG who was asked to specifically address the performance measure represented by the percentage of decisions overturned on appeal, in an effort to monitor the improvements in the quality of decision making within the system.

IRWG encourages joint training sessions for members of the partner agencies. The training sessions aim at improving decision quality throughout the system and promoting a better understanding of adjudicative processes.

On April 22, 2008, the tribunal delivered a presentation on section 29 applications, which are the exclusive jurisdiction of the tribunal, the board delivered a presentation on third party actions and investigations, and a board Health Services Consultant spoke on evidence-based research. A May 22, 2008 joint training session by board physiotherapy consultants covered functional capacity evaluations particularly in the context of return-to-work.

The system partners also collaborated on a major tribunal initiative to identify opportunities to promote a more collaborative approach to resolving disputes and thereby contributing to reducing the adversarial nature of the appeal system.

The board supported a secondment of a senior employee to the tribunal as a special projects officer (SPO) to conduct early and detailed reviews of appeal files to identify issues and to explore ways to resolve those issues by means other than a formal hearing. The SPO explores resolution by discussion with the board and representatives for the parties involved. Pre-hearing conferences between all parties and/or their representatives either in person or by phone are used to explore appeal resolution. The SPO also plays a major role in communicating with self-represented participants.

Partner agencies will build on the tribunal's experience with this early resolution to bring long-term solution in this area within the context of developing an issue resolution strategy.

In September 2008, the board hired a policy analyst to support WSIS activity. The policy analyst will concentrate on building relationships with external stakeholders and facilitating WSIS inter-agency cooperation. In support of inter-agency cooperation, an issue resolution strategy will be developed to guide and coordinate the system response to the stakeholder concerns on issue resolution, reducing litigiousness, and decision quality.

The issue resolution strategy will guide current and future activity in the area, engage stakeholders, communicate a systems approach, and identify clear outcomes. IRWG has been asked to oversee the initiative and provide advisory support for future recommendations to the Heads of Agencies Committee.

Interaction with stakeholders

The tribunal is represented on the Systems Performance Advisory Committee mandated to implement system performance measures as recommended by a committee of stakeholders.

As Chief Appeal Commissioner, I take the opportunity to speak to injured worker groups and employer representatives to obtain feedback on tribunal processes. These meetings also contribute to a better understanding of the system.

The tribunal's SPO and I spoke to a meeting of representatives of injured worker groups to discuss the early resolution project at the tribunal. We also hosted a meeting of representatives from WAP and the worker and employer communities to discuss the same issue.

I have met with the newly appointed employer and worker stakeholder counsellors and support their efforts to help stakeholders navigate the system. I participated in a panel discussion on workers' compensation issues at the Nova Scotia Federation of Labour's occupational health and safety/workers' compensation conference in November 2008. I also participated in a workshop on the appeal system for employers as part of the Safety Services Nova Scotia annual conference in March 2009.

On a yearly basis, I meet with the board's Board of Directors to bring them up to date on operations at the tribunal. I also attend the stakeholder consultation sessions hosted by the coordinating committee (the Deputy Minister of Labour and Workforce Development and the Chair of the board's Board of Directors) where employer and worker representatives discuss future directions for the system.

In September 2008, representatives from the tribunal attended several consultation sessions across the province hosted by the board on the future directions and strategic planning for the board.

On May 13, 2008, the Deputy Minister of Labour and Workforce Development and the Chair of the board's Board of Directors hosted the fourth annual meeting of stakeholders. This was an opportunity for partner agencies such as the tribunal to answer questions from stakeholders on tribunal operations.

Financial operations

In 2008–09, the tribunal's total expenditures were within 77 per cent of the original authority and within 94 per cent of our revised forecast. Net expenditures totalled $1,525,725.55, a slight increase from the previous year.

Key initiatives for the coming year

The tribunal's primary goals year over year consist of ensuring fair, timely, and efficient adjudication of appeals and providing consistent and quality decision making.

We will strive to improve tribunal processes and service delivery by responding to worker and employer satisfaction surveys to be conducted in June 2009. Our database of decisions will become more accessible to the public as we move in 2009 from a subscribed service under the Department of Labour and Workforce Development to a free, online service (CANLII).

The tribunal will continue its efforts to work with system partners and stakeholders to improve communication within the appeal system and to encourage a more collaborative approach to the resolution of appeals.

The tribunal's early intervention project will continue and will help bring a long-term solution in this area within the context of developing a system issue resolution strategy.

Louanne Labelle
Chief Appeal Commissioner

Introduction

The tribunal hears appeals from final decisions of hearing officers of the board and determines whether the act bars a right of action against employers. The tribunal is legally and administratively separate from the board and ensures an independent and impartial review of board decisions.

The tribunal also works with several partner agencies within the framework known as the WSIS. Partner agencies are the board, the WAP, and the Occupational Health and Safety division of the Department of Labour and Workforce Development.

This annual report highlights the processing and adjudication of appeals, as well as the tribunal's participation in joint initiatives with system partners.

Tribunal mandate and performance measures

While governed by the same enabling statute as the board, the tribunal is legally and administratively separate from it, and is ordinarily not bound by board decisions or opinions. This ensures a truly independent review of contested outcomes.

In the processing and adjudication of appeals, the tribunal strives to strike a balance between procedural efficiency and fairness. Its work is directed by principles of administrative law, by statute, and by decisions of superior courts.

Its performance is shaped by, and measured against, several parameters drawn from the Workers' Compensation Act (the "act," as amended) and by its own survey of user groups.

Appeal commissioners strive to release decisions within 30 days of an oral hearing or the closing of deadlines for written submissions, as opposed to the legislated 60 days.

New appeals are processed within 15 days of receipt by the tribunal.

Essentially, the tribunal can hear an appeal within 45 days of receiving notice that the participants are ready to proceed.

Operations overview

Entitlement to chronic pain benefits continued to be the primary issue on appeal at the tribunal during the year 2008–09. As anticipated, however, appeal volumes decreased during the year after the board's chronic pain unit completed the adjudication of claims in June 2008. The tribunal received 834 appeals during the year as compared to 976 the previous year (see Figure 1). The tribunal issued 762 decisions, also a decrease from the previous year's total of 892 (see Figure 2). Decision output was affected by the loss of an appeal commissioner part way through the year and a corresponding increase in the workload of remaining appeal commissioners.

The fair, efficient, and timely processing of appeals remained a priority for the tribunal throughout 2008–09. At year end, 506 appeals were outstanding, as compared to 481 at the end of 2007–08 (see Figure 3).

Please see Appendix containing specific data for the following figures.

Figure 1

Appeals Received

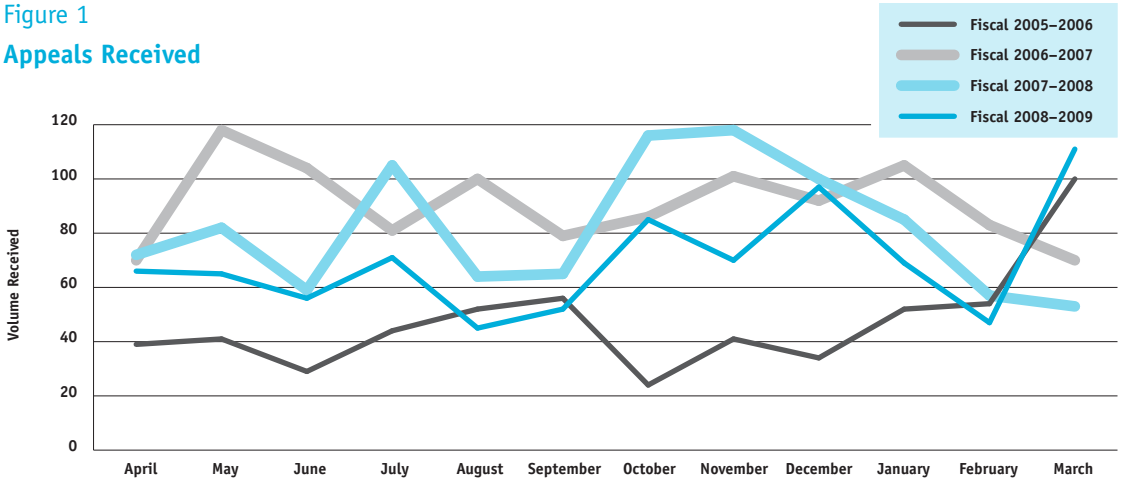


Figure 2

Decisions Rendered

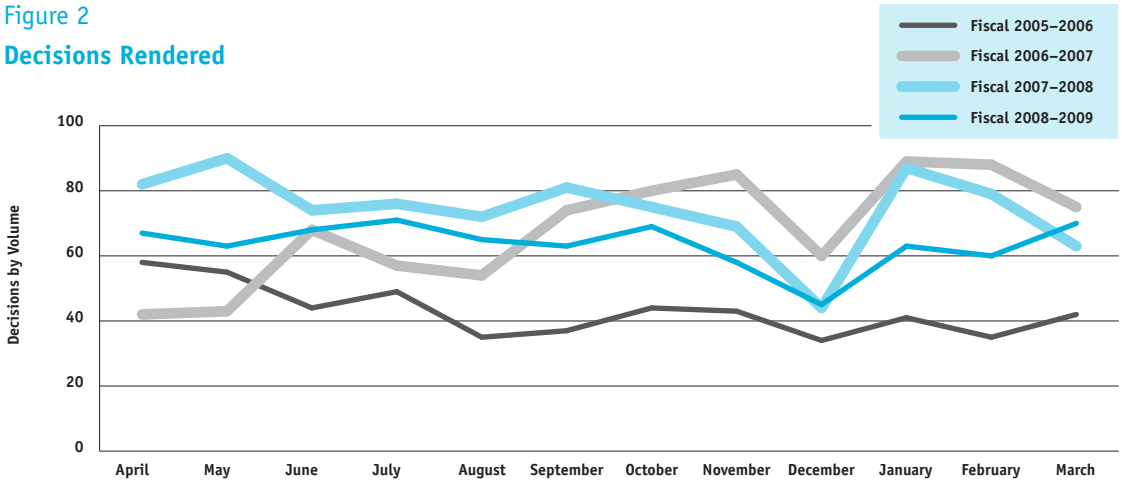
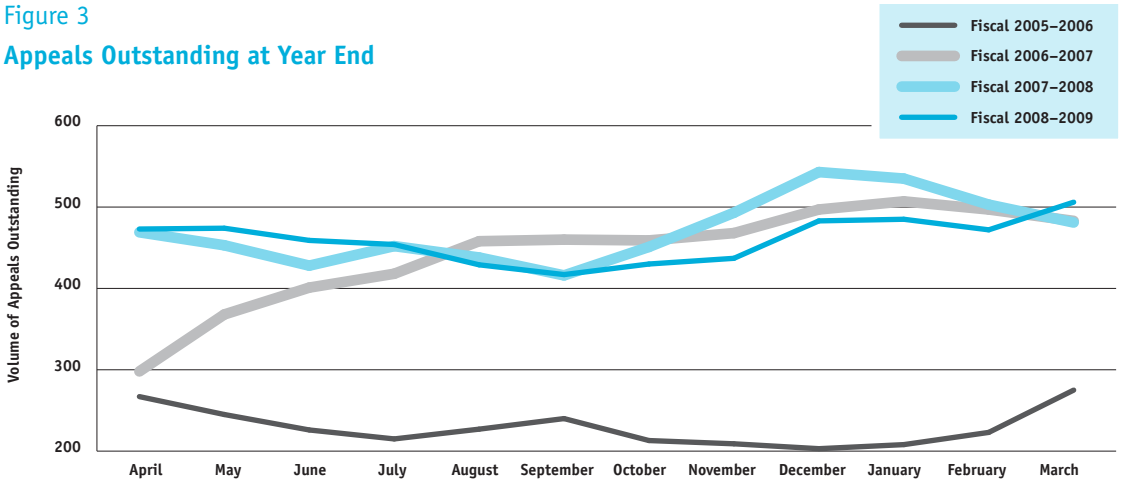


Figure 3

Appeals Outstanding at Year End



Of the 762 decisions rendered, 738 dealt with appeals by workers (see Figure 4). Another 19 appeals were filed by employers as a result of board decisions in workers' claims. Three appeals were filed as a result of employer assessment decisions. Finally, two decisions were issued in applications brought under s. 29 of the act.

Appeal outcomes have remained consistent. The overall overturn rate by the tribunal remained at 39 per cent (see Figure 5). This number is affected by the high number of denials in chronic pain appeals.

Figure 4

Decisions by Appellant Type

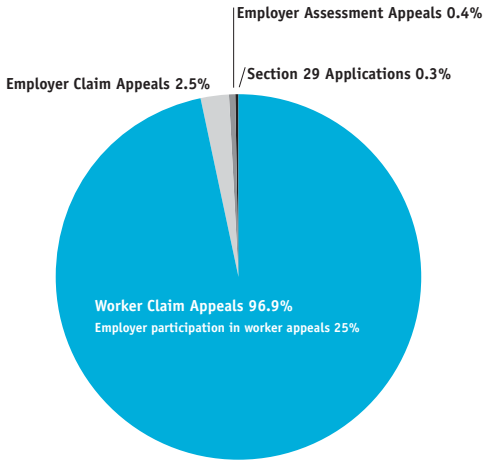
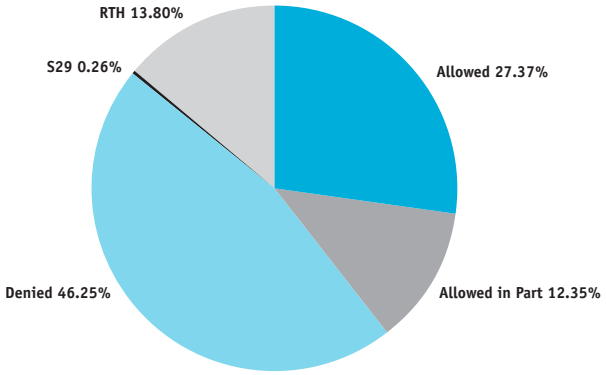


Figure 5

Decisions by Outcome



Many workers who appear before the tribunal, particularly workers appealing chronic pain decisions, are unrepresented or had representatives who were not members of the WAP (overall WAP represented 50 per cent of workers and 50 per cent of workers were either not represented or represented by injured worker groups) (see Figure 6).

Timeliness continued to meet performance expectations, although not to the level in the year previous, as 62 per cent of decisions were released within six months of the date the appeal was received (compared to 70 per cent in 2007–08) (see Figure 7).

Figure 6

Decisions by Representation

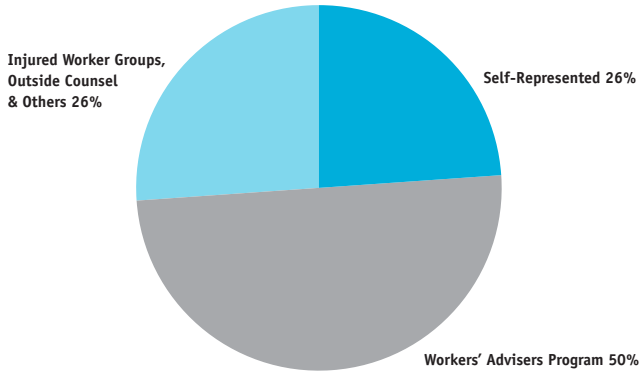


Figure 7

Timeliness to Decision

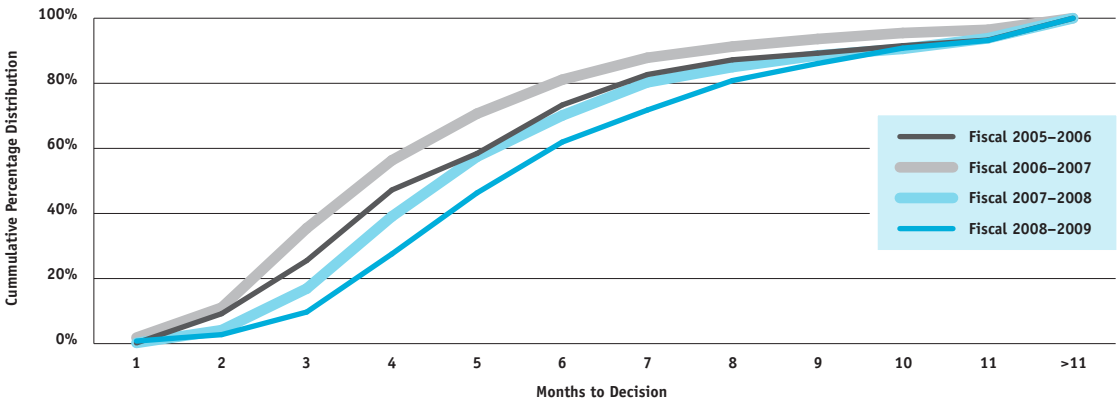
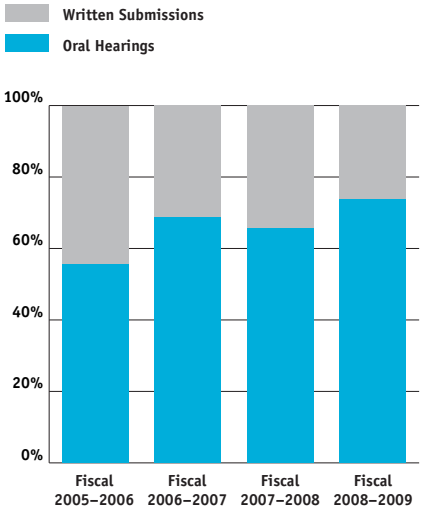


Figure 8

Decisions by Mode of Hearing



The tribunal hears most appeals (74 per cent) by way of oral hearing (see Figure 8).

The tribunal anticipates a continued decrease in appeal volumes due to the completion by the board's internal appeals department (its highest level of adjudication) of decisions dealing with entitlement to chronic pain benefits under the chronic pain regulations.

Tribunal – Appellant Interaction

The tribunal exists to adjudicate appeals by workers and employers from final decisions of the board, and to consider applications concerning the "right to sue" under s. 29 of the act. To improve service to participants in those appeals and applications, the tribunal regularly evaluates its interactions with participants.

Participants without representation

Workers who file appeals and who appear without representation by legal counsel or others are contacted by tribunal staff. The tribunal reviews with the worker what the worker can expect in a typical hearing, and questions are answered or referred to an appeal commissioner.

The tribunal continues to contact employers who participate in appeal proceedings without representation. They are also contacted by telephone, by a senior staff person, shortly after they advise the tribunal that they are participating. During this call, the tribunal's procedures are reviewed, including an explanation of what to expect before, during, and after the hearing, and any questions the employer may have are answered.

Employers participating without representation, for the first time, continue to express concerns when they participate in a hearing where another participant is represented, especially by legal counsel. One of the tribunal's continuing objectives is the reassurance of any participant appearing without representation that the presiding appeal commissioner can, and will, ensure that that participant will have a fair hearing.

Appeal Management

The tribunal regularly reviews its appeal management process to ensure that sufficient information is provided to, and effective communication is used with, all participants in an appeal proceeding.

Appeal participants represented by legal counsel are provided with standard deadlines in appeals proceeding by written submission. Appeals proceeding by oral hearing that involve only workers with WAP representatives are scheduled through the tribunal's monthly docket days. This enables advisers to communicate directly with the tribunal's registrar to address a variety of appeal issues at one time.

Appeals proceeding by oral hearing that involve both the WAP and employers (whether or not represented by legal counsel) are scheduled by conference call with the registrar. Various other matters – witness lists, expert reports, and other preliminary matters – may also be addressed, in addition to the setting of the hearing date and duration. When an employer is not represented by counsel, the employer is contacted in advance of the conference, so that procedures and expectations of the conference can be discussed.

The greatest challenge of appeal management is the striking of the balance between providing sufficient preparation time, on the one hand, and ensuring that the process (and decision) remains timely, on the other, as all participants have an interest in both.

Special Project – Early Intervention

In the fall of 2008, the tribunal began a pilot project to conduct an early review of appeal files to identify issues on appeal and to explore ways to resolve those issues by means other than through a formal hearing. The position of Special Projects Officer (SPO) was created to manage the project.

Tim McInnis of the board was seconded to this position given his experience with the Workplace Safety & Insurance System stakeholders. His position prior to leaving the board was Client Relations Officer. In that role, he reviewed and investigated complaints filed with the board regarding the quality of service delivery and process. He had also represented the board during the alternative dispute resolution project, working with the tribunal and the WAP.

The SPO position is non-adjudicative. It involves exploring, where possible, early resolution through discussions with the board and any other appeal participants. These discussions are not documented, nor are appeals discussed with any appeal commissioners, given their role as adjudicators should appeals proceed to a full hearing.

As SPO, Tim McInnis also contacted workers and employers who were not represented. Through these contacts, usually by telephone, the tribunal appeal process is explained, and assistance offered to address issues relevant to the appeal before the tribunal. Often, the SPO would contact other agencies within the Workplace Safety and Insurance System and, where appropriate, arrange pre-hearing conferences between all parties and/or their representatives to explore appeal resolution.

The SPO also provides feedback on possible alternate resolution processes to be incorporated into practice at the tribunal and/or the board. All participants were invited to initiate discussions on resolution alternatives. It was not a formal process, and discussions were off-the-record.

As part of his role in contacting workers and employers without representation, the SPO reviewed both the notice of appeal and the board's hearing officer decision. This allowed him to provide feedback to the board on board decision-making quality.

As a result of the project, the tribunal's notice of appeal form has been revised to reflect the emphasis on early review and resolution settlement and on prioritizing urgent matters.

Of 120 appeal files reviewed by the SPO in the sample period January 1, 2009 – March 31, 2009, 14 appeals were resolved through early intervention, usually by way of some form of benefit being awarded by the board. An additional 21 appeals were withdrawn for various reasons following initial discussions between the SPO and the worker, employer, or representative.

The SPO secondment is scheduled to end in October 2009, but a mechanism for continuing this in-depth review and alternate resolution strategy is being explored.

Freedom of information and protection of privacy

Tribunal decisions contain personal and business information, particularly medical information. Hearings are held i*n camera*. The decisions are provided to appeal participants including the worker, the board, and the employer. The decisions are available to the public through a subscription service, which is provided by the Department of Labour and Workforce Development as part of its database publication.

The tribunal is governed by Part II of the act. The legislation does not specifically permit the publication of decisions. However, the tribunal has adopted a practice manual, available online, which sets out the tribunal's procedures and rules for the making and hearing of appeals as authorized under s. 240 of the act.

The tribunal's practice manual advises of the publication of tribunal decisions and provides as follows:

> ### 9.00 PUBLICATION OF TRIBUNAL DECISIONS
> ### 9.10 General
> Tribunal decisions include a cover page setting out the names of participants and representatives. This information is not found in the body of the decision. The Tribunal endeavours to exclude any information from the body of a decision that could identify the participants. Decisions, without identifying features, are available through the Nova Scotia Department of Environment and Labour website. The database is developed and maintained by the Nova Scotia Environment and Labour Library. Anyone wishing to use the database should contact the Environment and Labour Library at 722-1318.
>
> ### 9.20 Personal Identifiers in Decisions
> Generally, decisions are written without personal identifiers for participants, except on the cover page. The names of participants, lay witnesses and others (where the use of names would tend to identify the participants), are not used in Tribunal decisions. Witnesses may be identified by their role, for example, the "worker" or the "employer," or by initials.

Expert witnesses may be referred to by name. However, if an appeal commissioner considers that the use of an expert's name might identify the participant, the expert witness may be referred to by title, for example, the worker's attending physician, or by initials.

The names of representatives will generally not be used in the body of a decision. Instead, they may be referred to by their role, such as the worker's representative. Board claim file numbers or employer registration numbers are not included in the body of a decision.

Quotations contained within Tribunal decisions are edited to protect privacy. This will normally be accomplished by substituting a descriptive term for a name and using square brackets to show the change, e.g., [the Worker].

A footnote at the bottom of the first page of every decision indicates that the participants have not been referred to by name in the body of the decision as the decision may be published. The publication version of decisions on the Department of Labour and Workforce Development database does not include any of the names of the participants nor claim numbers (which appear on the cover page of a decision).

Further vetting occurs after the decision has been released and prior to publication if circumstances warrant. Requests have also been made to withhold decisions from publication due to the extremely sensitive material contained in some of the decisions. These requests are considered and decisions may be withheld from publication.

The tribunal has adopted a "decision quality guide" which outlines quality standards for decision making. It includes a section concerning privacy issues, stating that "decisions should be written in a manner that minimizes the release of personal information." However, at the end of the day, a decision maker must have the discretion to include in a decision reference to evidence that the decision maker finds relevant to support the findings outlined in the decision.

Worker claim files are released to employers, after vetting by the tribunal for relevance. The tribunal will be revising its file release policy to ensure compliance with FOIPOP without compromising the needs of participants to know the evidence on appeal. Of particular concern to the tribunal is the need to ensure that personal worker information is not used for an improper purpose or improperly released/made public by a third party. The tribunal's correspondence accompanying file copies has also been revised to reflect these requirements and to refer to appropriate sanctions.

The tribunal rarely receives FOIPOP applications. Applications regarding claim files are referred to the board as they remain the property of, and are held by, the board, unless there is an active appeal. If there is an active appeal, no FOIPOP application need be made by an appeal participant, as the act provides for distribution of relevant claim files to appeal participants.

Most FOIPOP applications for generic information particular to the tribunal are addressed through the tribunal's Routine Access Policy, which is posted on the tribunal's website.

Decisions for the year 2008–09

The tribunal's business is to adjudicate appeals from decisions of the board, and to consider applications brought under s. 29 of the act to determine whether a party has a right to sue in the civil courts.

Adjudication is the tribunal's principal activity, and any decision may illuminate or advance the tribunal's approach to an issue, even those in already well-developed areas of adjudication. For the interest of advocates and stakeholders, a detailed discussion of noteworthy decisions, selected from the 762 decisions issued in the year 2008–09, is provided below (see Figures 9 and 10).

Figure 9

Decisions by Issue Categories – Worker

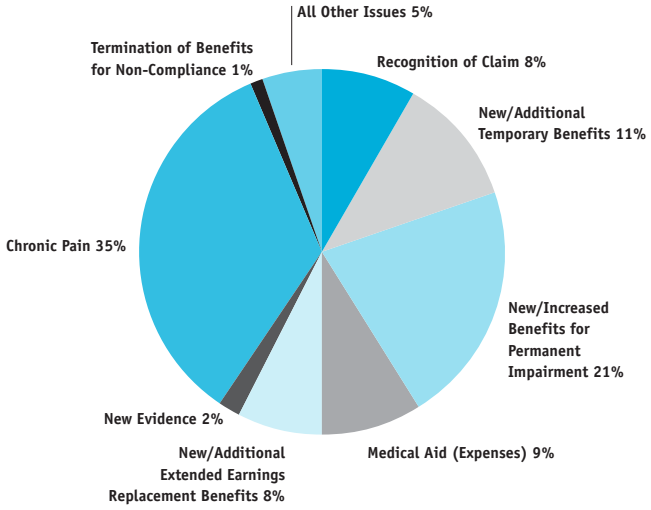
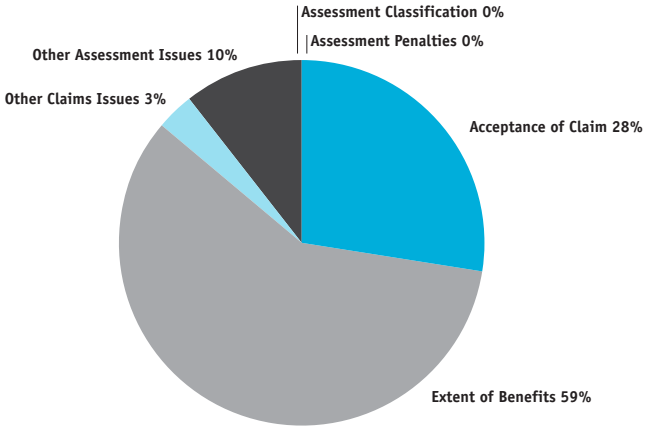


Figure 10

Decisions by Issue Categories – Employer



Noteworthy decisions by issue

Causation

The tribunal continues to see claims for medical conditions that, although not directly caused by the compensable injury, are alleged to be causally connected to the injury.

In *Decision 2007-945-AD* (August 27, 2008, NSWCAT), the worker claimed that her sleep apnea was a result of her compensable environmental illness syndrome, which had resulted in chronic pain syndrome and a variety of psychological and psychiatric conditions. The board found that the worker's sleep apnea was due to the worker's obesity. The tribunal found that the worker's obesity, the chronic nasal congestion caused by her environmental sensitivities, and her use of sedative medications contributed to the development of her sleep apnea. The worker's weight gain was accepted as compensable as it was found to be largely related to medication used to treat her psychiatric conditions.

Recognition that the condition of multiple sclerosis was related to exposure to toxins in the workplace was denied in *Decision 2007-1003-AD* (November 20, 2008). The worker developed multiple sclerosis eight years after leaving the workplace. There was no specific evidence of an association between the worker's exposures and multiple sclerosis, and only speculation that toxins may be a factor.

The tribunal, in *Decision 2008-666-AD* (March 26, 2009), recognized bruxism (the clenching and grinding of teeth) as being causally related to a compensable back injury. The tribunal accepted the evidence of the worker's family doctor that associated his teeth grinding to the back pain and stress resulting from his chronic back condition.

Medical Aid

In *Decision 2007-566-AD* (June 3, 2008), the tribunal determined that medical aid in the form of a replacement van was "necessary" within the meaning of s. 102 of the Workers' Compensation Act, [the "act"]. The worker was confined to a wheelchair. The board had provided him with a van, modified to accommodate his wheelchair, and which enabled him to drive. The van was in need of costly maintenance and repair that the worker could not afford. The worker lived in a rural area, where his extended family and support system also resided. The van was considered a necessity because he could not leave home without his power wheelchair. The purchase of a new van was considered more practical than maintaining the old one.

Medical aid in the form of a recumbent bicycle was awarded in *Decision 2008-227* (September 19, 2008). The worker broke his hip and was awarded a permanent medical impairment award, which compensated partially for muscle atrophy in the affected leg. The recumbent bicycle was aimed at providing home exercise to improve, stabilize, and slow the rate of decline in that area.

Recognition (arising out of and in the course of employment)

In *Decision 2008-298-AD* (January 30, 2009), the tribunal denied recognition of a claim by an itinerant home care worker who, while leaving on her regularly scheduled shift at the start of a work day, had slipped in her driveway and suffered a back injury. Recognition was denied primarily on the basis that the worker had not started her workday, and her slip and fall, therefore, did not occur in the course of her employment.

A similar fact situation was before the tribunal in *Decision 2008-487-AD* (February 9, 2009). The worker travelled to clients' homes to provide nursing services. She slipped in her driveway, in the evening, when she went out to get some paperwork from her car. The tribunal denied the appeal on the basis that the work had been neither requested nor required by the employer, the worker was neither at her employer's premises nor at a client's premises, the risk to which she was exposed was not exclusive to her employment, and the accident did not occur during work hours. This decision is currently on appeal to the Nova Scotia Court of Appeal.

Inclusion within the scheme of the act

The tribunal, in *Decision 2008-153-TPA* (October 21, 2008), was faced with the question within the context of a s. 29 application, of who constituted an "Employer engaged in an industry subject to mandatory coverage under the Act", pursuant to the Workers' Compensation General Regulations. The tribunal found that the applicant was engaged in fishing, an industry subject to mandatory coverage; however, the applicant was excluded from coverage as he did not have three workers "at the same time employed" pursuant to s. 15 of the General Regulations. The applicant himself was the employer and excluded from the definition of "worker" as per s. 17 of the Regulations. Although his son was included in the definition of "worker" in the act, the applicant's wife was excluded. The tribunal found that there were never three workers fishing on the vessel at the same time and that the applicant was not an "employer" under the act.

In *Decision 2007-577-AD* (July 25, 2008), the question was whether the worker, a roofer, was a "worker" as defined in the act, thereby entitling him to consideration for benefits under the act. This case involved the construction of a home for which the employer had entered into a contract for roofing. The employer was a covered employer under the act. The worker did not have coverage under the act, and was injured. The tribunal found that the employer was not merely acting as a friendly conduit for the homeowner, but that the employer had obtained the services of the roofer, in keeping with his overall contract of obtaining quotes for work on all aspects of the home's construction. Neither the homeowner nor the principal contractor supervised the roofer's work. The roofer was found to be a "worker" as defined in s. 2(ae) of the act.

In *Decision 2007-1020 RTH* (July 7, 2008), the tribunal found that a municipality who had hired an independent contractor to clean some municipal buildings was properly assessed by the board as the "employer." An injury had been sustained during the cleaning. The independent contractor did not have coverage as it did not have three workers. The tribunal found that under the legislation, and board policy 9.1.3, the independent contractor could be a deemed worker of the principal, the appellant municipality. This was found to be the approach that best furthered the aims of the act. This ensured that the independent contractor had coverage for her workplace injury and allowed the principal an opportunity to recover assessments paid from the contractor. The alternative was to provide no coverage for an otherwise acceptable workplace injury.

In *Decision 2008-142-AD* (October 20, 2008), the tribunal interpreted s. 15 of the General Regulations regarding the scope of coverage under the act. It held that the phrase "at the same time employed" did not mean that a firm became subject to coverage only when it employed three or more workers with the same hours of work. It included those businesses who employed three or more workers who may work different shifts within a 24 hour cycle, but who are, nevertheless regularly employed within the same pay period.

The Tribunal's jurisdiction pursuant to s. 29 of the Act

Section 28 of the act reflects the historic trade-off in which, generally speaking, workers gave up their right to sue their employers in exchange for rights under a no-fault insurance scheme. Section 29 gives the tribunal the exclusive jurisdiction to determine whether a worker's right of action is barred pursuant to s. 28. In *Decision 2008-373-PAD* (January 12, 2009), the tribunal considered its jurisdiction to make that determination in a case involving a fatal motor vehicle accident that had occurred in Newfoundland. The estate of one of the victims had elected not to claim compensation from the Newfoundland and Labrador Workplace Health and Safety Compensation Commission and commenced an action in the Supreme Court of Nova Scotia.

The tribunal found that the fact that the plaintiffs elected not to claim compensation did not negate the tribunal's jurisdiction. Nor was the fact that compensation was no longer payable under Part 1 of the act necessarily determinative.

In *Decision 2008-494-TPA* (February 2, 2009), the tribunal assumed jurisdiction to make the ruling on whether or not the action of one worker against another was barred under s. 12 of GECA. It found that although GECA did not incorporate s. 28 of the act, as there was a corresponding provision in s. 12 of GECA, it did incorporate s. 29 respecting actions started in the Supreme Court of Nova Scotia.

Employer access to information

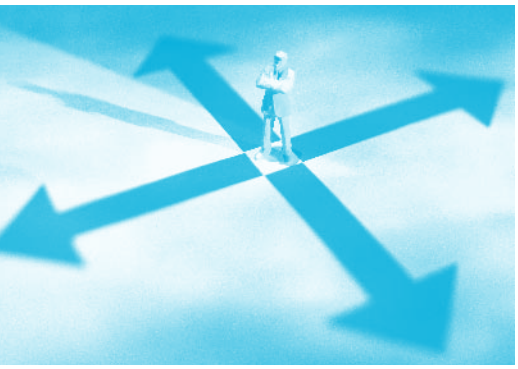
In *Decision 2008-108* (July 17, 2008), the tribunal found that s. 2 of Board Policy 10.3.5 did not require an employer to have filed an internal appeal of a decision, or submitted written argument or oral evidence, in order to be considered a "participant" in an appeal before a hearing officer. Section 3 of the policy did not prohibit release of information from a worker's claim file to an employer that did not outline its specific concerns as suggested by the policy. The employer was a "participant" as stipulated by s. 197(4)(a) of the act at the time the worker's file was released. The information released to the employer was relevant to the appeal.

Survivor benefits

In *Decision 2008-462* (December 11, 2008), the tribunal considered a claim for survivor benefits from the spouse of a worker who had been killed in a motor vehicle accident on his "earned day off." The tribunal found that, even though the worker's job may have required him to be accessible to his employer on his day off, his death had occurred while driving to a purely personal event, was unconnected to the workplace, and was non-compensable.

Earnings replacement benefit/Loss of earnings

The tribunal, in *Decision 2007-118-AD* (July 29, 2008), found that a worker involved in a workplace incident that eventually led to his dismissal for cause was not entitled to an extended earnings replacement benefit ["EERB"]. The tribunal determined that the worker's continued earnings loss was not related to his workplace injury and found that, had he not been fired, he would have been able to return to work. Consequently, his earnings loss was the result of non-compensable factors.



The facts in *Decision 2008-163-AD* (January 29, 2009) raised a similar issue. The worker had been dismissed from a modified position after his return to work, for reasons unrelated to his workplace injury. When his attempt to run his own business following the dismissal failed, he sought an EERB. The tribunal accepted that, in general, no earnings replacement benefit would be payable where a loss of earnings was due to a labour relations issue. It accepted that there could be circumstances where the general rule did not apply, but that this case did not present such circumstances. This decision is under appeal to the Nova Scotia Court of Appeal.

Benefits following the death of a worker

In *Decision 2008-302-AD* (September 8, 2008), the worker passed away before the board assessed whether he was entitled to compensation under the Chronic Pain Regulations. The tribunal interpreted s. 79 of the act as clearly giving the board a discretion to pay compensation to a dependant or caregiver where a worker dies. However, where that discretion is not exercised by the board, the benefits which should have been properly paid to a worker during their lifetime can be pursued by the worker's estate.

The tribunal, in *Decision 2008-488-AD* (January 23, 2009), denied a request to retroactively commute a correction in a worker's permanent impairment benefit. The tribunal determined that the right to commutation ended with a worker's death.

Chronic pain issues

While many of the key issues regarding the interpretation and effect of the Chronic Pain Regulations have been resolved since their enactment, the tribunal continues to decide questions arising from their practical application.

In *Decision 2008-465-AD* (January 27, 2008), the tribunal apportioned a pain-related impairment for a worker who had chronic pain that pre-existed his injury. The tribunal found that the proper method of apportioning a permanent impairment benefit (including a pain related impairment) was through sections 4.3.1 and 4.3.2 of the board's apportionment policy. The tribunal considered the evidence and the Pain Assessment Tool found in the American Medical Association's Guides to the Evaluation of Permanent Impairment Fifth Edition ("AMA Guides"), and found that the worker's pre-existing impairment should have been rated at 3 per cent, and his post-injury impairment at 6 per cent.

In *Decision 2007-1009-AD* (June 23, 2008), the tribunal held that the Pain Assessment Tool in the AMA Guides should be applied in as objective a manner as possible, with a focus on how, and to what degree, a worker's pain related impairment is manifesting itself. When assessing the impact of a worker's pain on his activities of daily living, it was stated to be incorrect to consider the character of the individual worker and attempt to measure stoicism or lack thereof.

Compensation for lost opportunity

The tribunal confirmed in *Decision 2008-425-AD* (October 28, 2008) that the Chronic Pain Regulations do not allow an EERB for those workers injured prior to March 23, 1990. Although the worker in this case argued that he had cashed in his pension from the employer and pursued vocational rehabilitation, causing him to lose out on an early pension provided to other employees, the tribunal found that the loss of a pension and lost opportunities were not compensable under the general scheme of the act or s. 3 of the Chronic Pain Regulations.

In a similar vein, the tribunal in *Decision 2007-681-AD* (February 10, 2009) rejected the worker's claim for benefits to cover a period of employment insurance benefits because he lost the opportunity to qualify for employment insurance (E.I.) as a result of his injury. The tribunal found that the loss of earnings was not due to the injury, but due to economic and personal circumstances and stated that, although E.I. benefits are considered earnings for certain purposes within the scheme of the act, there is no authority to include "lost opportunity" as part of loss of earnings.

GECA

The board is responsible for administering the Government Employees Compensation Act, or "GECA," on behalf of the federal government. The tribunal is often challenged with reconciling GECA with the act in its determination of compensation matters involving federal employees.

In *Decision 2008–349-AD* (December 12, 2008), the tribunal found that s. 83 of the act, which bars claims that have not met certain notice provisions, applied to GECA claims. The board found that the worker's claim, filed 50 years after the accident, was barred by s. 83. The tribunal found that the requirements for notice in s. 83 were sufficiently linked or connected to a "condition" of compensation, to be properly incorporated by reference into GECA.

GECA stress claims

In *Decision 2007-396-AD* (June 30, 2008), the tribunal applied the four-part test in policy 1.3.6, which applies to stress claims under GECA. The worker in this case was an investigator of aircraft accidents, and sometimes saw mutilated remains, etc., at crash sites. The tribunal found the worker's gradual onset stress was compensable pursuant to the four-part test, one part of which requires that the work-related events or stressors involved be "unusual or excessive" compared to those experienced by an average worker in the same or similar occupation. The tribunal found that the stressors the worker experienced in a local office were unusual and excessive compared to those of an average investigator in another one of the employer's offices.

In *Decision 2008-64-AD* (July 16, 2008), the tribunal found that Policy 1.3.6, the GECA stress claim policy, did not apply to a recurrence of a stress-related injury. The tribunal found that the issue was to be decided using the general rules of causation.

In *Decision 2007-578-AD* (October 30, 2008), the tribunal applied Policy 1.3.6, and found that the worker did not meet the criteria for recognition for either a gradual onset stress claim or a stress claim based on a traumatic event. The criteria for recognition of a gradual onset stress claim were not met because the events or stressors the worker experienced were not unusual or excessive. She was complaining about occasional exposure to perfumes or scents. This did not constitute an excessive or unusual event because the worker continued to experience this in the community and would have experienced this in any work environment. The worker's exposures to scents did not constitute a traumatic event. If these exposures were truly traumatic, in the sense contemplated by the policy (life threatening), she would not have, at any point, placed herself in a situation where she might experience an exposure.

Evidence-based research papers

In the past year, the board has commissioned evidence-based research papers on the clinical efficacy of both IV Lidocaine and specialized bedding systems.

In *Decision 2008-739-AD* (March 9, 2009), the board's paper on the long-term use of IV Lidocaine was persuasive in the tribunal's decision to deny the request for such treatment, on the basis that it is experimental and not consistent with healthcare standards in Canada.

In *Decision 2008-484-AD* (March 2, 2009), the board's paper on the clinical efficacy of specialized beds was considered. It suggested that such beds were acceptable treatment in cases where an individual was bedridden, but stated there was no objective evidence that they would be acceptable treatment in chronic pain cases. The tribunal found that there was no requirement for objective evidence that the bed be "necessary or expedient" within the wording of s. 102 of the act, and a bed was awarded on the basis of the medical evidence on file.

Board approved service providers

In *Decision 2008-101-AD* (August 26, 2008), the tribunal considered a claim for travel expenses, for travel to treatment provided by the Nova Scotia Environmental Health Centre. The claim had been denied by the board on the basis that the treatment was not provided by a "WCB approved service provider" within the wording of board policy 2.3.1R. The tribunal stated that, according to the board's website, all doctors licensed to practice in the province are approved service providers to the board. The doctor at the Nova Scotia Environmental Health Centre was determined by the tribunal to be an approved service provider and travel expenses to obtain his treatment were payable.

Massage therapy provided by a non-board approved service provider was allowed by the tribunal, in *Decision 2008-14-AD* (August 18, 2008, NSWCAT). The tribunal held that the board's requirement that treatment be provided by a board approved service provider was met by the fact that the treatments were capable of being supervised and monitored by the worker's family doctor, a board approved service provider. The board was able to monitor the worker's treatment through communication with his doctor and his massage therapist.

Appeals from Tribunal Decisions

The tribunal is the final decision-maker in the workers' compensation process. The tribunal has wide powers to review board decisions. On a limited basis, the Court of Appeal can review a tribunal decision.

A participant who disagrees with a tribunal decision can ask the Nova Scotia Court of Appeal to hear an appeal of the decision. This is a two-step process.

First, the person wanting to bring the appeal must ask the court's permission to bring the appeal. This is called bringing an application for leave to appeal.

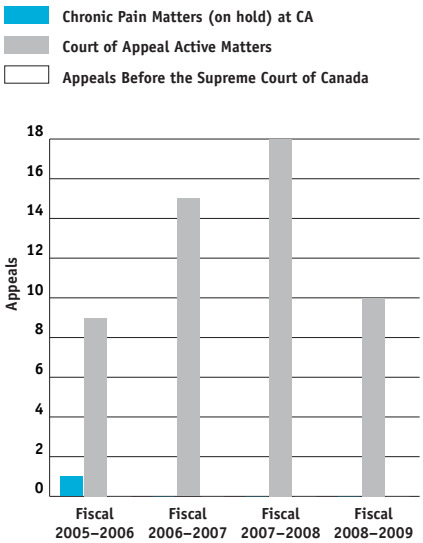
Second, if the court believes the appeal could succeed, it will hear the appeal and provide a written decision that will confirm, vary, or overturn the tribunal's decision. Only a few appeals make it to this second stage.

Most of the appeals this fiscal year were brought by workers who were not represented by the WAP or other legal counsel. None were given leave to appeal. It is a concern of the tribunal and the court that these persons do not understand the limited powers of the court to review a tribunal decision, the costs involved in bringing a matter to the court, and the procedures that must be followed for a court appeal.

The tribunal is working with court staff to find ways to better inform self-represented workers as to the differences between a tribunal appeal and a court appeal.

Figure 11

Appeals Before the Courts at Year End



During this fiscal year, 16 appeals from tribunal decisions were filed with the Court of Appeal:

- 13 decisions were appealed by workers
- 3 decisions were appealed by employers concerning compensation provided to a worker

During this fiscal year, 23 appeals were resolved as follows:

- 5 appeals were either withdrawn by the person who had asked the Court of Appeal for leave to appeal or dismissed by the court for procedural reasons
- 12 appeals were dismissed by the Court of Appeal at the leave stage
- 5 appeals were decided by the Court of Appeal: 2 were allowed and 3 were denied
- 1 appeal was resolved by a consent order directing a rehearing

At the beginning of this fiscal year, 18 active appeals were before the Court of Appeal. At the end of this fiscal year, there remained 10 active appeals (see Figure 11).

Just as at the Nova Scotia Court of Appeal, a person must seek the court's permission before the Supreme Court of Canada will hear an appeal. Three workers asked the Supreme Court of Canada to hear appeals of denials by the Court of Appeal. The Supreme Court of Canada did not agree to hear any of those appeals.

Decisions of the Court of Appeal

The court decided five appeals this fiscal year:

Bishop v. Nova Scotia (Workers' Compensation Appeals Tribunal) 2008 NSCA 29

The court considered whether the tribunal used the correct legal test in determining Mr. Bishop's stress claim.

Mr. Bishop sought a finding that he had an acceptable claim for gradual onset stress. The tribunal denied Mr. Bishop's appeal in part by comparing his stress exposures to the stress experienced by other workers in the same mine.

The board has a policy that must be applied when a federal employee files a gradual onset stress claim. The Court of Appeal found that the policy requires a comparison to stress exposures in the same occupation, not just to miners in the same mine. The court found that the tribunal erred in not comparing Mr. Bishop's stress exposures to those of the average miner.

Due to this error, the appeal was allowed. The matter was remitted to the tribunal for a new hearing.

Embanks v. Nova Scotia (Workers' Compensation Appeals Tribunal), 2008 NSCA 28

The court confirmed the tribunal's finding that it must apply an objective test in assessing the nature of workplace events and stressors.

Mr. Embanks sought a finding that he had an acceptable claim for gradual onset stress. The court confirmed that board policy required an objective test for workplace stressors. It found that the policy codified the law as it existed before the policy came into place.

The court found that the tribunal correctly decided that compensable gradual onset stress requires that there have been work-related events or stressors that are unusual and excessive. Whether a stressor is unusual or excessive is viewed objectively as compared to stressors experienced by an average worker in the same or similar occupation.

Pelley v. Nova Scotia (Workers' Compensation Appeals Tribunal), 2008 NSCA 46

In a rare divided decision, the court overturned the tribunal's finding that a worker over the age of 63 was not to be considered for earnings-replacement benefits for a recurrence of earnings-loss.

Generally, earnings-replacement benefits end when a worker turns 65. An exception is where the worker is 63 years old or older "at the commencement" of the earnings-loss. In that case, the worker can get up to 24 months of earnings-loss. This exception is set out at s. 37(10) of the Workers' Compensation Act.

Ms. Pelley's earnings-loss began when she was 62 years old. She returned to employment, but had to stop working again before age 65 due to her injury. She sought earnings-loss benefits for the recurrence of her loss of earnings beyond age 65.

The court found that the tribunal was wrong to find that the second period of earnings-loss was not a "commencement" of earnings-loss. It directed the board to consider Ms. Pelley for up to 24 months of earnings-replacement benefits following the second work stoppage.

The dissenting judge agreed with the tribunal decision, finding that the commencement of Ms. Pelley's earnings-loss occurred when she was 62 years old as there is only one commencement. The dissenting judge would have upheld the tribunal's decision.

Downey v. Nova Scotia (Workers' Compensation Appeals Tribunal), 2008 NSCA 65

The Court of Appeal upheld the tribunal's finding that the new rating scheme for chronic pain is constitutional.

Mr. Downey developed chronic pain due to a 1989 workplace injury. The board awarded him benefits based on a 6 per cent pain-related impairment, the maximum rating under the Chronic Pain Regulations.

Mr. Downey brought a charter challenge arguing that the 6 per cent maximum rating for chronic pain discriminated against workers with chronic pain.

The court concluded that Mr. Downey's Charter rights were not violated, as impairment ratings do not award compensation for loss of earnings ability. Mr. Downey was not treated differently than injured workers without chronic pain. Impairment awards are not based on the impact of an injury on earnings-capacity. Also, there are many caps for impairment ratings, not just for chronic pain.

The Court of Appeal stated that the tribunal correctly performed a Charter analysis:

> It was careful to compare the benefits available to workers like the appellant with chronic pain, to benefits to workers without chronic pain. In doing so, it properly took into account the nature of permanent partial disability benefits to all workers, like the appellant, who were injured before 1990.

The Supreme Court of Canada dismissed an application for leave to appeal this decision of the Court of Appeal.

Cape Breton Development Corporation v. Nova Scotia (Workers' Compensation Appeals Tribunal), 2008 NSCA 72

The Court of Appeal upheld the tribunal's decision that the worker's widow was entitled to survivor benefits. The tribunal found that pain from the worker's injury materially contributed to his alcoholism, which in turn materially contributed to his death.

The employer challenged the tribunal's decision arguing that it improperly applied the rules for causation in linking the worker's pain to his alcoholism. The employer did not challenge the finding that alcoholism was linked to the worker's need for a liver transplant, which was a cause of his death by heart failure.

The court upheld the tribunal decision finding that the tribunal appropriately considered all evidence and approached causation as a practical question of fact which can best be answered by ordinary common sense.

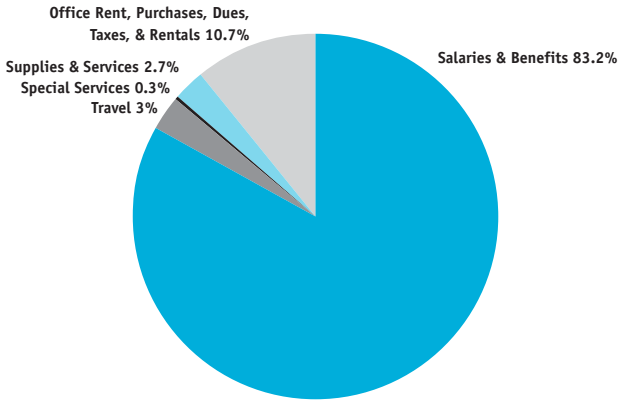
Financial operations

In 2008–09, the tribunal's total expenditures were within 77 per cent of the original authority and within 94 per cent of our revised forecast. Net expenditures totalled $1,525,725.55, a slight increase from the previous year (see Figure 12).

Figure 12

Budget Expenditures

(for the Fiscal Year Ending March 31, 2009)



Appendix

Figure 1 – Appeals Received

	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Total
Fiscal 05–06	39	41	29	44	52	56	24	41	34	52	54	100	566
Fiscal 06–07	70	118	104	81	100	79	86	101	92	105	83	70	1089
Fiscal 07–08	72	82	59	105	64	65	116	118	100	85	57	53	976
Fiscal 08–09	66	65	56	71	45	52	85	70	97	69	47	111	834

Figure 2 – Decisions Rendered

	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Total
Fiscal 05–06	58	55	44	49	35	37	44	43	34	41	35	42	517
Fiscal 06–07	42	43	68	57	54	74	80	85	60	89	88	75	815
Fiscal 07–08	82	90	74	76	72	81	75	69	44	87	79	63	892
Fiscal 08–09	67	63	68	71	65	63	69	58	45	63	60	70	762

Figure 3 – Appeals Outstanding at Year End

	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar
Fiscal 05–06	267	245	226	215	227	240	213	209	203	208	223	275
Fiscal 06–07	298	368	401	418	458	460	459	468	497	507	497	483
Fiscal 07–08	469	453	428	452	438	416	451	493	543	535	503	481
Fiscal 08–09	473	474	459	454	429	417	430	437	483	485	472	506

Figure 4 – Decisions by Appellant Type

	Total
Worker Claim Appeals*	738
Employer Claim Appeals	19
Employer Assessment Appeals	3
Section 29 Applications	2
Total	762

** Employer participation in worker appeals 25%.*

Figure 5 – Decisions by Outcome

Allowed	208
Allowed in Part	94
Denied	352
S29	2
RTH	105
Moot	1
Preliminary Decisions*	4
Correcting Decisions*	6
Total Final Decisions	762

**Does not reduce the number of appeals outstanding*

Figure 6 – Decisions by Representation

Self-Represented	184
Workers' Advisers Program	382
Injured Worker Groups, Outside Counsel & Others	196

Figure 7 – Timeliness to Decision (cumulative percentage by month)

Months	1	2	3	4	5	6	7	8	9	10	11	>11
Fiscal 05–06	0.21	9.19	25.52	47.22	58.43	73.33	82.69	87.22	89.25	91.55	93.29	100
Fiscal 06–07	1.84	11.04	35.46	56.32	70.67	81.10	87.85	91.29	93.62	95.46	96.44	100
Fiscal 07–08	0.22	4.14	16.91	39.08	57.45	70.10	80.29	84.99	88.58	90.59	93.84	100
Fiscal 08–09	0.79	2.76	9.71	27.56	46.33	61.94	71.78	80.84	86.09	90.81	93.18	100

Figure 8 – Decisions by Mode of Hearing

	Oral Hearings	Paper Review	Total
Fiscal 05–06	287	230	517
Fiscal 06–07	561	254	815
Fiscal 07–08	586	306	892
Fiscal 08–09	561	201	762

Figure 9 – Decisions by Issue Categories – Worker

Recognition of Claim	86
New/Additional Temporary Benefits	116
New/Increased Benefits for Permanent Impairment	219
Medical Aid (Expenses)	91
New/Additional Extended Earnings Replacement Benefits	77
New Evidence	20
Chronic Pain	346
Termination of Benefits for Non-Compliance	12
All other issues	53
Total	1020

Figure 10 – Decisions by Issue Categories – Employer

Acceptance of Claim	8
Extent of Benefits	17
Assessment Classification	0
Assessment Penalties	0
Other Claims Issues	1
Other Assessment Issues	3
Total	29

Figure 11 – Appeals Before the Courts at Year End

	Chronic Pain Matters (on hold) at CA	Court of Appeal Active Matters	Appeals Before the Supreme Court of Canada	Total
Fiscal 05–06	1	9	0	10
Fiscal 06–07	0	15	0	15
Fiscal 07–08	0	18	0	18
Fiscal 08–09	0	10	0	10

Figure 12 – Budget Expenditures

(for the Fiscal Year Ending March 31, 2009)

	Authority	Final Forecast	Actual Expenditures
Salaries & Benefits	$1,576,700.00	$1,328,800.00	$1,267,576.82
Travel	$57,000.00	$49,100.00	$55,763.96
Special Services	$85,000.00	$30,000.00	$7,276.51
Supplies & Services	$62,800.00	$51,500.00	$37,815.47
Office Rent, Purchases, Dues, Taxes, & Rentals	$206,500.00	$193,400.00	$161,167.79
Sub Total	**$1,988,000.00**	**$1,652,800.00**	**$1,529,600.55**
Less Recoveries	$0.00	$13,800.00	$3,875.00
Totals	**$1,988,000.00**	**$1,639,000.00**	**$1,525,725.55**