

Minutes of the OLRB Advisory Committee

**March 5, 2009
SGM Boardroom**

In attendance: Kevin Whitaker – Chair, OLRB
Tim Parker – Director/Registrar, OLRB
Leonard Marvy – Solicitor, OLRB
Lorne Richmond – Union, Committee Co-Chair
Joe Liberman – Employer, Committee Co-Chair
Bridget Lynett – Legal Director, Ministry of Labour
Risa Pancer – Union
Patrick Moran – Employer
Mark Geiger – OBA Labour and Employment Section
Gail Misra – Union
Daryn Jeffries – Employer

Absent: Sunil Kapur – Employer
Elizabeth Mitchell – Union
David Jewitt – Union
Kathleen Stokes – Employer

Lorne Richmond chaired the meeting.

A. FOLLOW-UP FROM LAST MEETING

1. Quantum of Payment of Fees for Multiple Grievances

Kevin advised that the Ministry of Labour is still prepared to make the change (elimination of multiple payments with charges applied per hearing day as opposed to per grievance). The change requires a cabinet minute, and will likely occur in the Spring.

2. Card-Based Certification: Timing of Union Challenges

Len advised that the recommended change to status disputes in Construction Industry Card-based certifications has been implemented as of March 1, 2009. Notice of the pending change was on the Board's website and in *Highlights* prior to March 1, 2009. The specific change is set out in Information Bulletin #9 and will be reflected in the Board's standard decisions.

3. Time for Filing of Responses by Employers in Section 133 Grievances

Len advised that Rule 37.1 has been changed effective March 1st, 2009 making the Response due two days before the Hearing, rather than by 9:30 a.m. on the morning of the hearing. Notice of the Rule change was on the Board's website and in *Highlights* prior to March 1, 2009, and is also reflected in Form C-38 and Information Bulletin #20.

4. Cumulative Index

Len advised that the Index project is proceeding (although there has been delay with the scanning), however it will not be ready this Spring. The solicitor's office will report to the Committee in June with a project update and projected completion date.

B. NEW ISSUES

5. Scheduling

Once again the issue of scheduling continuations was raised, particularly the ability to schedule directly with the Vice-Chair. Tim and Kevin explained the importance of maintaining flexibility in scheduling and Kevin made it clear that the Board would not at this time move to a system where the individual vice-chair controls her or his own schedule.

6. Consultations (and DFR complaints)

A question was raised for discussion concerning the consultation process for DFR complainants with remarks that there was a perceived lack of clarity or consistency in the application of consultations. The concern was that union members who file DFR complaints may leave the Board unsure whether they have been fully heard. There was some discussion of the consultation process more generally. Kevin noted the importance of meeting parties' reasonable expectations and said he would bring back for discussion with the Vice-Chairs the issue of consistency and consultations.

7. Assignments

A question was also raised about the Board's practice to assign the same group of Vice-Chairs to similar matters. There was some discussion about the value of consistency in decision making versus a "fresh view" of a matter.

8. OBA Task Force on Wrongful Dismissal

Mark mentioned that the report was out and if one could not find it on the OBA website you could email him, and he would forward you a copy.

9. **Statistics**

Tim mentioned that the Board statistics will likely be down around 10% this year.

10. **Future Agendas**

Gail Misra will communicate with members before the next meeting for agenda items (and circulate the agenda prior to the meeting).

C. Next Meetings (for 2009)

June 11 [Filion Wakely Thorup and Angeletti]
September 17
December 10

Meeting adjourned at 7:15 p.m.
Minutes prepared by Leonard Marvy