



Public Service
Staffing Tribunal

Tribunal de la dotation
de la fonction publique

Public Service Staffing Tribunal
Understanding Our Goals



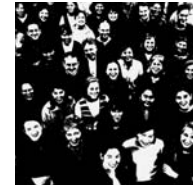
2006/2007 ANNUAL REPORT

Canada



Table of Contents

Message from the Chairperson	1
The Work of the Public Service Staffing Tribunal	3
Mandate	3
Mission	3
Values	3
Background	4
Second Year Achievements	5
Introduction	5
Highlights of Our Second Year	5
The Registry	6
Complaint Statistics	6
Types of Complaints	7
Case Management System	7
Case Summaries	8
Final Decisions	8
Interim Decisions	10
Dispute Resolution Services	15
Mediation	15
Interest-based Negotiation and Mediation Training	17
Corporate Services	18
Communications/Outreach	18
Human Resources	19
Performance Measurement	19
Members' Meetings and Training	19
Finance	20
Funding	20
Spending	20
Acknowledgements	21
Appendix 1 – Members' Biographies	23
Appendix 2 – Statutory Responsibilities	28
Appendix 3 – The Complaint Process	30
Appendix 4 – Staffing Complaint Resolution System	31
Appendix 5 – How to Contact the Tribunal	32





Message from the Chairperson

The Public Service Staffing Tribunal has just completed its first full year of operations. One year ago, the number of complaints received by the Tribunal was fifteen. Since then, over 400 complaints have been filed. Not surprisingly, the greatest challenge facing the Tribunal over the past year has been the dramatic increase in the number of complaints and resulting volume of work.

From the outset, the Tribunal adopted an approach that would allow parties to a complaint to resolve their differences as informally and expeditiously as possible. Our approach is in keeping with one of the main objectives of the *Public Service Modernization Act (PSMA)* adopted in 2003 – namely, build effective labour-management relations in the federal public service through communication and sustained dialogue.

Similarly, the *Public Service Employment Act (PSEA)*, a key component of the *PSMA*, calls for a public service “characterized by fair, transparent employment practices, respect of employees, effective dialogue and recourse aimed at resolving appointment issues.”

For this reason, the Tribunal, through its *Regulations* and *Procedural Guide*, has chosen to provide several opportunities in the complaint process for parties to come to a resolution without having to proceed to a hearing.

First, the parties are required under the *Regulations* to share all relevant information about the complaint with one another. Nearly a third of all complaints received in 2006-2007 were withdrawn after the parties had exchanged information about the process and gained a better understanding of each other’s concerns.

Once the exchange of information has taken place, the complaint is referred to the Tribunal’s mediation services unless one of the parties declines to participate. In mediation, the parties are afforded another opportunity not only to meet and discuss the complaint and any underlying issues, but also to resolve them in the best interest of all concerned. Seventy-one percent of all complaints referred to mediation in 2006-2007 were resolved at this stage.



The Tribunal's informal processes have been very effective thus far. Of the 273 files that were closed during the period from April 1, 2006 to March 31, 2007, 86% were resolved without a formal hearing, either through the exchange of information, mediation or another step in the complaint process.

Once a complainant has filed his/her allegations in writing and the deputy head has responded, a pre-hearing conference is held in order to simplify the proceedings by narrowing the issues before the Tribunal or having the parties explore the possibility of reaching a settlement. Two percent of all complaints received in the past year were withdrawn following pre-hearing conferences.

Although none took place in 2006-2007, the Tribunal plans to hold settlement conferences as a further alternative to a formal hearing. During a settlement conference, a member of the Tribunal will review the facts of the complaint with the parties, discuss the strengths and weaknesses of their respective cases, offer an opinion on the merits of the complaint and help them come to a settlement.

The Tribunal's informal processes have been very effective thus far. Of the 273 files that were closed during the period from April 1, 2006 to March 31, 2007, 86% were resolved without a formal hearing, either through the exchange of information, mediation or another step in the complaint process.

While the Tribunal recognizes that not all complaints can be settled through informal means, we also believe that the best solution to a workplace dispute or conflict is one in which the parties come to an agreement on their own, rather than one where a decision is imposed upon them by an outside third party.

In the months following the establishment of the Tribunal, we set out to develop practices that would help managers and employees resolve their differences through constructive dialogue. I am proud to report that those practices are now in place and are proving to be successful. The Tribunal is committed to fostering effective labour-management relations in the federal public service, thereby doing its part to improve the ability of the public service to serve and protect the public interest.

Guy Giguère,
Chairperson and Chief Executive Officer



The Work of the Public Service Staffing Tribunal

Mandate

The Public Service Staffing Tribunal (the Tribunal) is an independent, quasi-judicial tribunal established by the *Public Service Employment Act (PSEA)* as part of the new arrangements for recourse with respect to staffing complaints.

The mandate of the Tribunal is to consider and dispose of complaints related to:

- internal appointments
- lay-offs
- the implementation of a corrective measure ordered by the Tribunal
- the revocation of an appointment

In carrying out its mandate, the Tribunal may provide mediation services at any stage of a proceeding in order to resolve a complaint. When considering whether a complaint against an internal appointment or lay-off is founded, the Tribunal may interpret and apply the *Canadian Human Rights Act (CHRA)*.

Mission

The Tribunal aspires to contribute to a competent, non-partisan and representative public service through the impartial and timely disposition of disputes related to the internal staffing and lay-off processes in the government of Canada.

Values

The Tribunal is committed to:

- maintaining its impartiality, transparency and independence;
- providing professional, respectful and timely service to its clients and stakeholders;
- helping parties to resolve their disputes as informally and as expeditiously as possible;
- ensuring that the decisions it renders are fair, consistent and well reasoned;
- consulting our clients and stakeholders and keeping them informed of the Tribunal's services and jurisprudence; and
- promoting a healthy work environment that is both productive and effective.



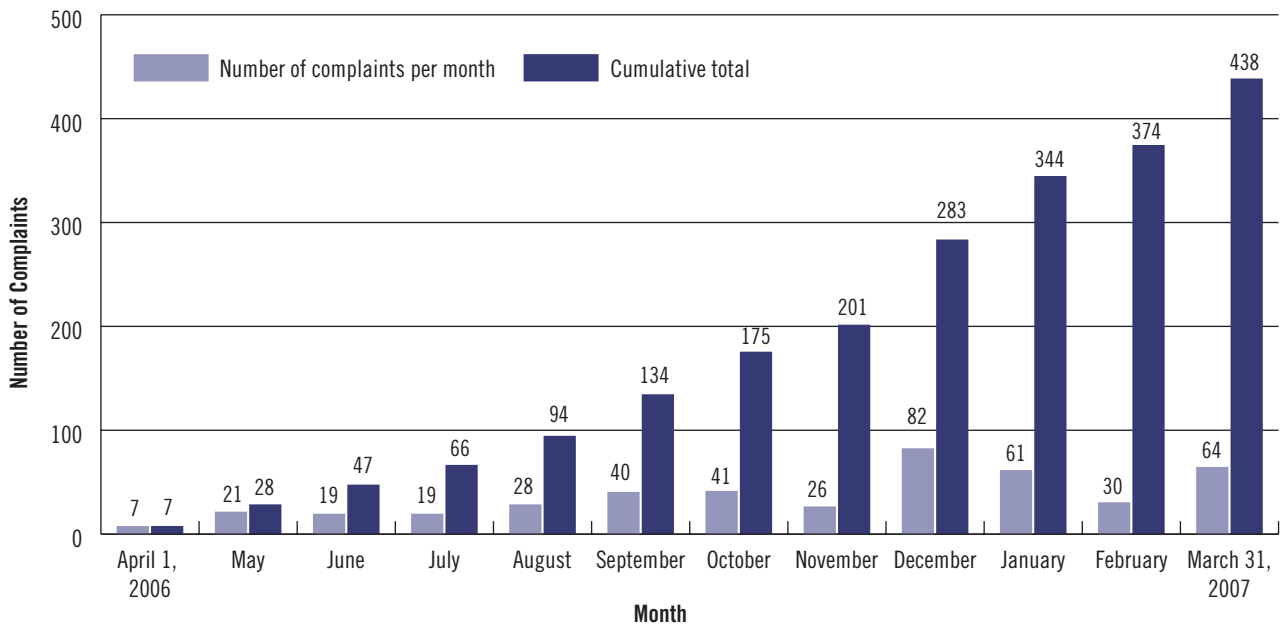
Background

As part of the *Public Service Modernization Act (PSMA)*, the new *PSEA* received Royal Assent on November 7, 2003 and came into force on December 31, 2005. Once the Chairperson of the Tribunal was named in March 2005, preparations began in earnest to ensure that the Tribunal would be ready to hear complaints as of the coming-into-force date.

Given the time needed to conduct and complete a selection process, it was not expected that complaints would be filed with the Tribunal until the spring of 2006. Although the first complaint was received on February 6, 2006, the overall volume was relatively light through the end of the fiscal year 2005-2006 and the early part of fiscal year 2006-2007.

The number of complaints rose sharply starting in July 2006. The following graph illustrates the dramatic rise in volume during the period from April 1, 2006 to March 31, 2007.

Public Service Staffing Tribunal Complaints Fiscal Year 2006-2007



Second Year Achievements

Introduction

During 2005-2006, the first year of the Tribunal's existence, the main focus of activity was on preparing the Tribunal to hear complaints or resolve them by other means. The first twelve months were therefore devoted to: setting up of the Tribunal's offices; recruiting staff; drafting and finalizing its *Regulations* and *Procedural Guide*; establishing mediation services; developing a communications plan and outreach strategy; putting an automated case management system in place and providing training to members and staff to ensure that complaints were handled efficiently and effectively.

Over the past twelve months, the Tribunal's first full year of operations, the number of complaints received by the Tribunal rose to over 400 from 15 during the previous year. Due to the dramatic increase in volume, it became necessary to adjust the complaint procedures in place and inform stakeholders accordingly. A consultation group representing key stakeholders – departments, central agencies and bargaining agents – was formed and met periodically to discuss and address areas of concern involving the complaint process.



Over the past twelve months, the Tribunal's first full year of operations, the number of complaints received by the Tribunal rose to over 400 from 15 during the previous year. Due to the dramatic increase in volume, it became necessary to adjust the complaint procedures in place and inform stakeholders accordingly.

Highlights of Our Second Year

- The first mediation training course took place from April 10 to 12, 2006.
- The first mediation session was held in May 2006.
- The first interim order, including the reasons, was rendered on May 26, 2006.
- The first annual report was published in August 2006.
- The first pre-hearing conference was held on August 23, 2006.
- The first hearing was held in Belleville, Ontario on August 29-30, 2006.
- The first final decision was issued on September 28, 2006.

Also as a result of the increased volume, the Tribunal found it necessary to redefine its organizational structure and identify several key positions to be filled as quickly as possible. The organizational structure is likely to continue to evolve over the next few years as the Tribunal endeavours to strike a balance between the demands of handling a large caseload while developing the organization. For this reason, the Tribunal has chosen to recruit individuals with a wide variety of skills and abilities. In order to reflect this reality, most, if not all, work descriptions were written or revised during the past year and the classification of most positions was completed.

With both the appropriate procedures and qualified, experienced personnel in place, the Tribunal began to make further progress towards fully developing its internal corporate services and enhancing its management framework.

The following section describes the main achievements of the past year in greater detail.

The Registry

During the period of April 1, 2006 to March 31, 2007, the Tribunal received a total of 438 complaints. The following table provides a summary of the complaints received during this period:

Complaint Statistics 2006-2007		
Complaints received	Number	Percentage
Complaints withdrawn following exchange of information	88	32%
Complaints withdrawn following mediation	35	13%
Complaints withdrawn following pre-hearing conference	6	2%
Complaints withdrawn at other stages of complaint process	106	39%
Decisions rendered	38	14%
Total files closed	273	100%
Complaints remaining as of March 31, 2007	165	
Total complaints received	438	



Types of Complaints 2006-2007

Complaints received	Number	Percentage
Internal Appointments (<i>PSEA s. 77</i>)		
Advertised process	250	57%
Non-advertised process	171	39%
Revocation of appointment (<i>PSEA s. 74</i>)	9	2%
Lay-offs (<i>PSEA s. 65</i>)	3	.7%
Application of corrective measures (<i>PSEA s. 83</i>)	3	.7%
Unspecified	2	.5%
Total complaints received	438	

The Tribunal continued to fine-tune its case management system by increasing the amount of data that can be entered and the number of reports that can be generated so that complaint files can be monitored, problems identified and resolved and overall statistics produced quickly and easily.

Case Management System

The Tribunal continued to fine-tune its case management system by increasing the amount of data that can be entered and the number of reports that can be generated so that complaint files can be monitored, problems identified and resolved and overall statistics produced quickly and easily. The information obtained from the system will be used in the future to improve the Tribunal's complaint process and procedures and report on its overall effectiveness and efficiency.

Case Summaries

The following case summaries are a representative sample of some key principles established by the Tribunal during the year.

Final Decisions

Jeannette Tibbs and the Deputy Minister of National Defence et al. (2006 PSST 0008)

The complainant alleged that she was not appointed to the position of Production Manager in the Department of National Defence because of an abuse of authority. She argued that, as established by David Philip Jones and Anne S. de Villars in the *Principles of Administrative Law* (Toronto: Thomas Carswell, 2004), three of the five categories of abuse of authority – discretion exercised with improper intention, acting on inadequate material, improper result, discretion based on erroneous view of the law and adoption of a policy that fetters ability to consider individual cases with an open mind – applied to the way in which the selection process was conducted.

The respondent and the Public Service Commission argued that only the first type of abuse could apply in the context of the *PSEA* – that is, improper intention, including acting in bad faith or irrelevant considerations.

The Tribunal found that:

- all five categories of abuse may serve as a test for abuse of authority in the context of the *PSEA*;
- the complainant failed to prove that the selection board acted on inadequate material when it screened her out and screened the eventual appointee in; and
- the complainant failed to prove that the selection board exercised its discretion with improper intention or improper result.

The complaint was dismissed.

Chantal Jolin and the Deputy Head of Service Canada et al. (2006 PSST 0011)

The complainant alleged that she was not appointed to the position of National Human Resources Manager in Service Canada because the selection board abused its authority by incorrectly using a particular assessment tool, In-Basket Exercise 810.



The complainant maintained that:

- the selection board acted on inadequate material by not clearly identifying the specific competencies required for the position in the statement of merit criteria;
- the use of the in-basket exercise by the selection board to assess a candidate's qualifications was improper because the exercise had no connection to the merit criteria, thereby producing an improper result; and
- her inability to proceed to the next phases of the appointment process because of her results in the in-basket exercise constituted an unreasonable action on the part of the selection board.

The respondent replied that:

- there was an obvious connection between the assessment tool and the essential qualifications identified for the position;
- the assessment methods were applied consistently and fairly to all candidates;
- passing the in-basket exercise was a minimum requirement;
- failure to meet a minimum requirement leads to the conclusion that a person does not have all the essential qualifications established for a position;
- the complainant provided only personal opinions in support of her allegations; and
- the selection board was not influenced by personal favouritism or bad faith.

The Public Service Commission submitted that the concept of abuse of authority should not be interpreted in its broadest sense; a finding of abuse of authority must be based on facts that can be described as outrageous, unreasonable or unacceptable and the evidence must be concrete.

In its decision, the Tribunal reasoned that, in order to find abuse of authority in the selection of assessment methods, the complainant must prove that the result is unfair and that the assessment methods are unreasonable, do not allow the qualifications stipulated in the statement of merit criteria to be assessed, have no connection to the criteria or are discriminatory. In this case, the Tribunal concluded that the selection board made its decision based on adequate material, the use of In-Basket Exercise 810 did not produce an unfair result and the process was not therefore tainted by an abuse of authority.

The complaint was dismissed.

Brenda Portree and the Deputy Head of Service Canada et al. (2006 PSST 0014)

The complainant alleged that she was not appointed to the acting position of Universal Agent in Service Canada due to an abuse of authority by the selection board in its application of the merit criteria during the appointment process.

The complainant submitted that the selection board abused its authority by:

- failing to understand or seek clarification regarding her answer to one of the interview questions;
- awarding more weight and significance to the appointee's replies to the same question than to her reply;
- asking an unclear question that failed to solicit the required information; and
- failing to contact a previous supervisor.

The respondent replied that the complainant had the burden of proving abuse of authority and that this burden required more than demonstrating errors, omissions or improper conduct.

The Public Service Commission did not take a position on the facts of the case, but did address the changes to the *PSEA*.

The Tribunal found that insufficient evidence was provided by the complainant to substantiate her complaint and that simply disagreeing with the result of an appointment process did not constitute evidence of wrongdoing on the part of the selection board.

The complaint was dismissed.

Interim Decisions

Marie-Claude Larose and the Chief Commissioner of the Canadian Human Rights Commission et al. (2006 PSST 0001)

The complainant requested full access to a document that she had received during the exchange of information but which had entire sections missing. After examining the document and the parties' arguments regarding the release of the information contained therein, the Tribunal confirmed that the purpose of the exchange of information is to facilitate the resolution of a complaint very early on in the process through an open and thorough exchange of relevant information.

The Tribunal found that the information was indeed relevant to the complaint and ordered that the document be delivered to the complainant in its entirety. It was also noted that a deputy head does not have to wait for the Tribunal to order the disclosure of relevant personal information before providing such information to a complainant.

Linda MacDonald and the Deputy Head of Service Canada et al. (2006 PSST 0002)

The complainant filed her complaint on June 16, 2006 but was advised that it had been received after the 15-day time limit. The complainant requested an extension of the time limit as provided for under section 10 of the *Regulations*.

As in previous Federal Court of Appeal decisions, the Tribunal determined that the time limit to file a complaint is a strict one. However, the Tribunal also found that, in the interest of fairness, it would be appropriate to consider that a complaint has been filed with the Tribunal as soon as it has been mailed, if the mailing date can be proven easily.

In this case, the postage meter marking on the complainant's envelope clearly demonstrated that she had mailed her complaint to the Tribunal from Nova Scotia on June 16, 2006, four days before the closing date for filing a complaint.

For this reason, the request to extend the time limit was granted.

Nihal Sherif and the Deputy Minister of the Agriculture and Agri-Food Canada et al.

(2006 PSST 0003)

The complainant requested an extension of the time limit for filing a complaint with the Tribunal on the basis that the Department failed to post the notification of proposed appointment in accordance with regulations.

The respondent replied that, in effect, there had been two appointments, one under the former *PSEA* and another, under the new *PSEA*, and agreed that notification should have been provided for the second appointment.

The Tribunal found that:

- the complainant had not received proper notification of the second appointment nor of her right to complain or of the grounds for complaint under the *PSEA*; and
- section 10 of the Tribunal's *Regulations* established the latest date for filing a complaint, but not the earliest.

The complaint was found to be timely.

Jeffrey Wylie and the President of the Canada Border Services Agency et al.
(2006 PSST 0007)

The Canada Border Services Agency requested that the Tribunal determine whether it had jurisdiction to hear a complaint filed following the posting of Information Regarding Acting Appointment. In its submission to the Tribunal, the Agency stated that the notice of appointment had been issued in error and the acting appointment had come to an end.

The Public Service Commission submitted that the question of whether an acting appointment is an appointment under the *PSEA* depended on whether the complainant had been assessed against the merit criteria for the position. The Commission also submitted that, since the acting appointment had already ended, the matter was moot because none of the corrective measures available to the Tribunal could be applied.

The Tribunal found that, in accordance with subsection 58(2) of the *PSEA*, each appointment made on an acting basis and each extension of such an appointment constitutes an appointment subject to the requirement of the *PSEA* and its regulations, including recourse.

The Tribunal concluded that the ending of the acting appointment did not render the matter moot since it has the authority to determine whether an abuse of authority has occurred during the course of an internal appointment process and to order appropriate corrective action, other than revocation.

The Tribunal determined that it had jurisdiction to hear the complaint.

Lorrie Oddie and the Deputy Minister of National Defence et al. (2006 PSST 0009)

The complainant requested the disclosure of the assessment and reference check information for the successful candidate. She argued that the information requested was relevant to her complaint of bad faith, discrimination and favouritism. In her opinion, she and the successful candidate were treated differently in that the selection board did not check the successful candidate's references as thoroughly as it did hers.

The respondent replied that the information related to the successful candidate was not relevant to the complaint.



The Tribunal established a four-part test to determine the relevancy of the information requested to the complaint:

- The requested information must have a bearing on the crux of the complaint;
- The complainant must demonstrate to the Tribunal's satisfaction that there is a clear nexus, or, in other words, concrete linkage between the information sought and the matter at hand;
- The request must be sufficiently specific so there is no dispute as to what is desired; and
- The Tribunal must be satisfied that disclosure of the information will not cause undue prejudice.

The Tribunal found that the background information and issues presented by the complainant were sufficiently detailed and relevant to the complaint so as to warrant the disclosure of the information requested.

The request for an order for provision of information was granted.

David Aucoin and the President of the Canadian Border Services Agency et al.
(2006 PSST 0012)

The complainant requested the provision of information relating to a standardized test, including the qualifications of the selection board members administering the test. The Agency submitted that the Tribunal had to decide whether the requested information was relevant.

The Public Service Commission explained the rules and guidelines applicable under the former *PSEA* with respect to standardized tests. The Commission also submitted that information concerning the selection board members' training was not relevant nor were the notes taken by the members regarding the other candidates.

The Tribunal used a three-part test to decide whether to provide access to the test:

- Does the material pertain to the complainant and should it be disclosed by reason of its relevance?
- Would providing access to the confidential materials affect the validity or continued use of a standardized test or part thereof by giving an unfair advantage to any individual?
- Would prejudice to the future use of the test be avoided if conditions were imposed regarding the release of the information? (e.g. allowing only the complainant's representative to access the materials)

In this particular case, the Tribunal found that:

- the information relating to the test was relevant to the complaint;
- the continued use of the standardized test would be compromised if access to the test were granted to the complainant, thereby conferring an unfair advantage upon him;
- prejudice to the future use of the test could be avoided by allowing only the complainant's representative access to the materials;
- it was not necessary to order the provision of information related to the selection board members' training on the test;
- notes concerning the complainant's assessment were relevant and must be provided; and
- the notes of the successful candidates were not relevant.

The request for an order for provision of information was granted in part with conditions.

Peter Richardson et al and the Deputy Minister of Environment Canada et al.
(2007 PSST 0007)

The respondent requested that the Tribunal dismiss six complaints filed against an appointment made as a result of an external non-advertised appointment process on the basis that the person appointed to the position was on leave from the Canada Revenue Agency at the time of his appointment. The respondent provided several documents in support of its claim that an external non-advertised process had been held.

The Tribunal found that the person appointed was, in fact, an employee of the Public Service and that, by only considering one person already in the employ of the Public Service, an internal appointment process had been conducted.

The respondent's motion to dismiss the complaint was denied.



Dispute Resolution Services

Mediation

In keeping with the spirit of the *PSMA*, and in accordance with section 97 of the *PSEA* which states that the Tribunal may offer mediation services at any stage of its proceedings in order to resolve a complaint, the Tribunal refers all complaints to mediation unless one of the parties declines mediation.

Mediation usually takes place following the exchange-of-information stage in the Tribunal complaint process. If one of the parties to a complaint does not wish to participate in mediation at this stage, he/she may request to do so at a later stage provided that the other party agrees.

Three mediators, including the Director of Dispute Resolution Services, five full-time members and four part-time members of the Tribunal conduct mediation sessions on behalf of the Tribunal. In addition, a number of other Tribunal employees have been trained as mediators in the event that additional resources are needed from time to time.

Those who participate in mediation are asked to complete an evaluation form regarding the Tribunal's mediation services at the conclusion of the session. An analysis of the evaluations revealed that the level of satisfaction among participants in mediation was over 80% with respect to the process and the work of the mediators during the period from April 1, 2006 to March 21, 2007.

The following chart contains statistical information on the mediation services offered by the Tribunal in 2006-2007:

Those who participate in mediation are asked to complete an evaluation form regarding the Tribunal's mediation services at the conclusion of the session. An analysis of the evaluations revealed that the level of satisfaction among participants in mediation was over 80% with respect to the process and the work of the mediators during the period from April 1, 2006 to March 21, 2007.

Mediation Services 2006-2007

Total number of complaints where parties consented to mediation	114
National Capital Region	29
Ontario	23
Québec	16
British Columbia	15
Nova Scotia	12
Newfoundland and Labrador	5
Manitoba	4
Alberta	4
New Brunswick	4
Saskatchewan	1
Northwest Territories	1
Number of complaints where consent to mediate was withdrawn	11
Number of complaints withdrawn before scheduled mediation session	9
Remaining cases referred to a mediator	94
Number of mediations conducted	49
Number of complaints resolved	35 = 71%
Number of open mediation files as of March 31, 2006	45



Interest-based Negotiation and Mediation Training

In addition to its mediation services, the Tribunal developed a training course on interest-based negotiation and mediation which was delivered 17 times in major urban centres across the country in English and French in 2006-2007.

The two-and-a-half-day interactive course allows potential participants in mediation – bargaining agent representatives, delegated managers and staffing or human resources (HR) advisors – to gain an understanding of the Tribunal’s mediation process and of the preparation required for mediation in the context of the appointment process.

Course participants are asked to fill out an evaluation form at the end of each course. According to the evaluation results, the level of satisfaction among course participants was over 80% with respect to the course content and the work of the course facilitators during fiscal year 2006-2007.

The following chart outlines the frequency and location of the courses:

Interest-based Negotiation and Mediation Training 2006-2007	
Location	Number of courses
National Capital Region	9
Toronto	2
Montreal	2
Kingston	1
Halifax	1
Edmonton	1
Vancouver	1
Total	17

Consultation with representatives of the Canada School of Public Service took place throughout 2006-2007 concerning the joint development and production of an interactive, web-based tool to enhance understanding of the Tribunal's mandate as well as its complaint process from beginning to end.

Corporate Services

Communications/Outreach

The Tribunal launched a new website in July 2006. It not only gives access to the Tribunal's complaint forms, brochures and *Procedural Guide*, but also provides information on:

- the PSEA
- the Tribunal's complaint process and procedures
- members of the Tribunal
- job opportunities with the Tribunal
- decisions rendered by Tribunal members
- the Tribunal's dispute resolution services
- training on interest-based negotiation and mediation.

A draft brochure describing the mediation services offered by the Tribunal was produced and will be published in April 2007 for distribution at conferences, training sessions etc.

Ten presentations explaining the Tribunal's complaint process and procedures and outlining key principles established in Tribunal decisions were made to stakeholder groups made up of HR and staffing advisors, delegated managers or bargaining agent representatives across Canada in both official languages.

Consultation with representatives of the Canada School of Public Service took place throughout 2006-2007 concerning the joint development and production of an interactive, web-based tool to enhance understanding of the Tribunal's mandate as well as its complaint process from beginning to end.



Human Resources

Given the increase in the volume of complaints filed with the Tribunal, the number of Tribunal employees rose significantly in 2006-2007 with the following positions being filled: three registry officers, two mediators, three administrative assistants, a scheduling officer and a financial officer.

To ensure transparency and the fair and consistent treatment of its employees, the Tribunal developed a number of internal policies, including a labour relations policy, a grievance policy, an Informal Conflict Management System policy, a travel policy etc.

The Tribunal promotes continuous learning in the workplace and offered specialized training in 2006-2007 to its staff members as required.

Performance Measurement

In order to ensure that its main objective of resolving complaints in an impartial and timely way is carried out efficiently and effectively, the Tribunal began to develop a performance measurement framework to monitor its performance and make any necessary adjustments. Work on an internal audit and evaluation plan began in 2006-2007.

Members' Meetings and Training

A Members' meeting was held in March 2007 to provide both full-time and part-time members with an update concerning the Tribunal's activities and a forum for discussing matters of mutual concern.

Professional development training to the members was offered on subjects such as the proper conduct of a hearing and effective decision-writing.

In order to ensure that its main objective of resolving complaints in an impartial and timely way is carried out efficiently and effectively, the Tribunal began to develop a performance measurement framework to monitor its performance and make any necessary adjustments. Work on an internal audit and evaluation plan began in 2006-2007.

Finance



Funding

The Tribunal requested permanent funding by way of a Treasury Board submission in the fall of 2006. At that time, a permanent source of funds was not identified. However, the Tribunal received temporary funding for fiscal years 2007-2008 and 2008-2009. The challenge in obtaining permanent funding was the newness of the Tribunal. The Tribunal will return to Treasury Board when it has more experience operating with a full case load and is better able to identify its long-term needs specifically.

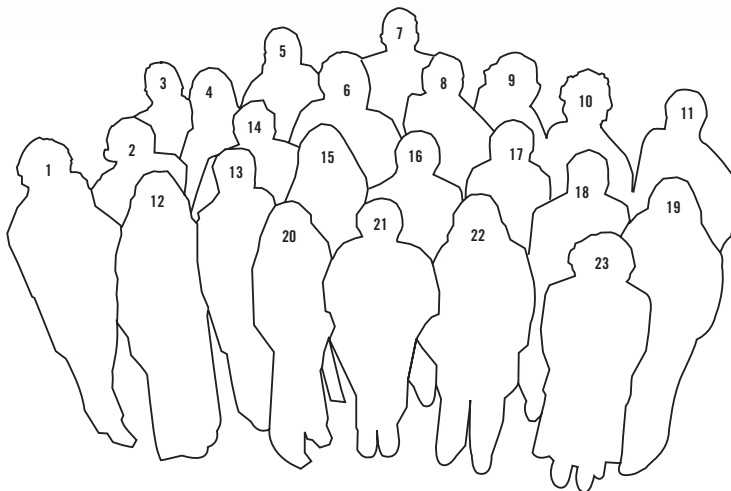
Spending

2006-2007				
Description	FTE	Salaries	O & M	Total
Adjudication of Complaints	10.6	1,081,092	77,859	1,158,951
Mediation of Complaints	1.2	127,305	164,144	291,449
Corporate Services	9.6	1,151,038	614,457	1,765,495
Total Spending		2,359,435	856,460	3,215,895
Unspent*		761,347	1,045,540	1,806,887
Total Allocation		3,120,782	1,902,000	5,022,782

*Returned to the Consolidated Revenue Fund of the government

Acknowledgments

The Tribunal was very fortunate to have a professional and dedicated staff that handled complaints efficiently and kept the Tribunal operations running smoothly despite the dramatic increase in the number of complaints in 2006-2007. From the registry officers who receive and process the complaints to the mediators who try to help the parties reach an agreement on their own, each and every Tribunal employee contributed greatly to the success of the Tribunal in its first full year of operation.



1. Silvia Kunz, Head, Administrative Services
2. Josée Dubois, Executive Director and General Counsel
3. Chevenese Pryce, Junior Communications Officer
4. Nathalie Lowe, Registry Officer
5. Suzy-Anne Legault, IT Specialist*
6. Julie Brunet, Senior Human Resources Specialist
7. Geoff Miller, Special Advisor to the Chairperson
8. Serge Roy, Director, Dispute Resolution Services
9. Josée Potvin, Registrar
10. Rachel Dugas, Legal Counsel
11. Mark MacDonald, Senior Legal Counsel
12. Julie Brown, Financial Services*
13. Suzy Beaudoin, Financial Services*
14. Yves Duquette, IT Systems Architect*
15. Nathalie Auger, Mediator
16. Ginette Demeule, Scheduling Officer
17. Josée Labelle, Registry Officer
18. Maryse David, Administrative Assistant
19. Michelle Budzinski, Administrative Assistant
20. Louise Lapointe, Registry Officer
21. Monica Blanchard, Administrative Assistant
22. Elizabeth Holden, Director, Planning, Communication and Corporate Services
23. Madeleine Sauvé, Mediator

Missing from photo:
Carmel Doherty, Registry Officer

*Shared position with Public Service Labour Relations Board

Appendix 1 – Members’ Biographies

Guy Giguère

Chairperson and Chief Executive Officer

A seasoned adjudicator and mediator with over 24 years of experience in the federal public service of Canada, Guy Giguère was appointed Chairperson of the Public Service Staffing Tribunal in March 2005. Mr. Giguère was first a member of the Public Service Staff Relations Board from 1998 to 2000 and became Deputy Chairperson of the Board in 2001. Mr. Giguère began his public service career in 1983 with Employment and Immigration Canada where he provided training and advice on human rights and access to information legislation. He later worked with the Office of the Privacy Commissioner, the Department of Justice and the Privy Council Office. Born in St-Jérôme, Québec, Mr. Giguère obtained a civil law degree (LL.L) from the Université de Montréal and has been a member of the Quebec Bar since 1978. Mr. Giguère is a frequent speaker on mediation and arbitration in the federal public service and trains new members of federal administrative tribunals on the conduct of a hearing. He is also a regular guest lecturer at the Faculty of Law, University of Ottawa and with the Department of Industrial Relations at the Université du Québec en Outaouais.



Sonia Gaal

Vice-Chairperson

Sonia Gaal was appointed Vice-Chair of the Public Service Staffing Tribunal in August 2005. Ms. Gaal received her civil law degree (LL.L) from the Université de Montréal, completed a Post Graduate Diploma in Labour Law at the University of Alberta and holds an MBA from Athabasca University in Alberta. From 1985 to 1988, Ms. Gaal was a Labour Relations Officer and member of the negotiating team for the City of Edmonton. She later served as a Labour Relations Advisor with the Government of Alberta where she represented the government during arbitration hearings and negotiations. In 1998, Ms. Gaal was appointed to the Alberta Labour Relations Board and, one year later, to the Canada Industrial Relations Board in Ottawa as a full-time member. Ms. Gaal remains an active member of the Law Society of Alberta and the Barreau du Québec.





Helen Barkley

Full-time member

A graduate of Queen's University (B.A. Sociology), Helen Barkley commenced her public service career with the National Parole Service. In 1980, she left the public service to attend law school (LL.B., University of Ottawa, 1983), and has been a member of the Ontario Bar since 1985. On her return to the public service in 1985, she worked in several departments doing legislative review. In 1990, Ms. Barkley was appointed as an Appeal Board Chairperson with the Public Service Commission, where she conducted appeal hearings, investigations and boards of inquiry. Since 1998, she has held senior positions in recourse and policy. As part of the modernization process, she participated in the Public Service Commission Advisory Committee working group on co-development and the Deputy Ministers' working group on staffing recourse. Ms. Barkley was appointed as a full-time member of the Public Service Staffing Tribunal in November 2005.



Merri Beattie

Full-time member

Merri Beattie is an experienced human resources professional, with particular expertise in labour relations and staffing. Ms. Beattie began her public service career with Supply and Services Canada and has held positions in management since 1999. Ms. Beattie served on the Privy Council's Task Force on Modernizing Human Resources Management created in April 2001 to draft a new institutional and legislative framework for human resources management in the public service. Following the adoption of the *Public Service Modernization Act* (PSMA), Ms. Beattie participated in the planning of PSMA implementation across government departments and agencies. In January 2004, Ms. Beattie was named Director of Human Resources Modernization with Public Works and Government Services Canada. In this capacity, she led the design and implementation of the department's human resources policy frameworks and systems, including its response to the new Act. Ms. Beattie was appointed member of the Public Service Staffing Tribunal in November 2006.

Francine Cabana

Full-time member

Francine Cabana was appointed as a member of the Public Service Staffing Tribunal in November 2005. Ms. Cabana began her career with the Department of Communications in human resources and later became a compensation and benefits specialist with the Canadian International Development Agency. In 1984, she became a union representative with the National Component of the Public Service Alliance of Canada (PSAC) where she argued employee grievances and complaints before various administrative tribunals and developed an expertise in alternative dispute resolution. From 1997 until her appointment to the Tribunal, Ms. Cabana was a PSAC Grievance and Adjudication Officer, representing members before provincial and federal labour relations boards, both during formal hearings and mediation sessions.



Ken Gibson

Temporary member

Ken Gibson became a temporary member of the Public Service Staffing Tribunal in January 2006. Mr. Gibson began his career as a researcher with the Science Council of Canada and later worked at the Professional Institute of the Public Service of Canada as both chief research officer and negotiator. From 1985 to 2000, he held a number of senior human resources management positions at the National Research Council, including Director of Employee Relations. Mr. Gibson spent the next five years working as a human resources consultant with expertise in HR strategy, policy and program development, project management, labour relations and change management. Mr. Gibson holds an Honours Bachelors degree in Commerce with specialization in economics and industrial relations.





Robert Giroux
Temporary member

Robert J. Giroux was appointed temporary member of the Public Service Staffing Tribunal in November 2005. Before retiring as President of the Association of Universities and Colleges of Canada in March 2004, Mr. Giroux held the positions of Secretary of the Treasury Board and Comptroller General of Canada, President of the Public Service Commission of Canada, Deputy Minister of Public Works Canada, and Deputy Minister of National Revenue, Customs and Excise. He is a member of the Order of Canada and has received honorary doctorates from several Canadian universities. Mr. Giroux currently serves on the Board of Directors of the Canadian Education Centre Network, Katimavik, and chairs the Board of Directors of the Canadian Council on Learning. He is also a member of the Canada Foundation on Innovation and the Canada Millennium Scholarship Foundation and a Senior Fellow with the faculty of Social Sciences at the University of Ottawa. Mr. Giroux has a BA in Commerce and an MA in Science from the University of Ottawa.



Daniel Ish
Temporary member

Daniel Ish was appointed as a temporary member of the Public Service Staffing Tribunal in November 2005. A graduate of the College of Law, University of Saskatchewan and Osgoode Hall Law School and established arbitrator and mediator, Mr. Ish has handled more than 300 cases related to labour, commercial and contractual matters since 1979, including numerous Indian Residential School (IRS) claims. Mr. Ish began his career as assistant Professor of Law at McGill University and is currently Professor of Law at the University of Saskatchewan and a senior adjudicator in Canada's IRS Dispute Resolution program. He has also served as a consultant to private and public organizations in the United States, the Caribbean, Taiwan, Nepal, Indonesia, the Philippines, China and Sri Lanka and published more than 60 articles, books and reports.

Gordon Roston

Temporary member

Gordon Roston was appointed temporary member of the Public Service Staffing Tribunal in November 2005. From 1980 to 1995, Mr. Roston served the federal public service in many capacities, including Director General, International Marketing, Tourism Canada; Minister-Counsellor, Canadian Embassy, The Hague, Netherlands; Senior Staff Advisor to the Service to the Public Task Force, Public Service 2000 and Senior Advisor, Innovative and Quality Services, Treasury Board Secretariat. Since his early retirement from the public service, Mr. Roston has pursued a particular interest in Alternate Dispute Resolution and is a graduate and Fellow of the Canadian Institute for Conflict Resolution. As a mediator in the Ontario Civil Court Mandatory Mediation Program, he has acted in a wide variety of disputes ranging from breach of contract to harassment and has taught mediation and negotiation principles and practice. Mr. Roston has served as chairman, board member or advisor on a number of community and cultural organizations.





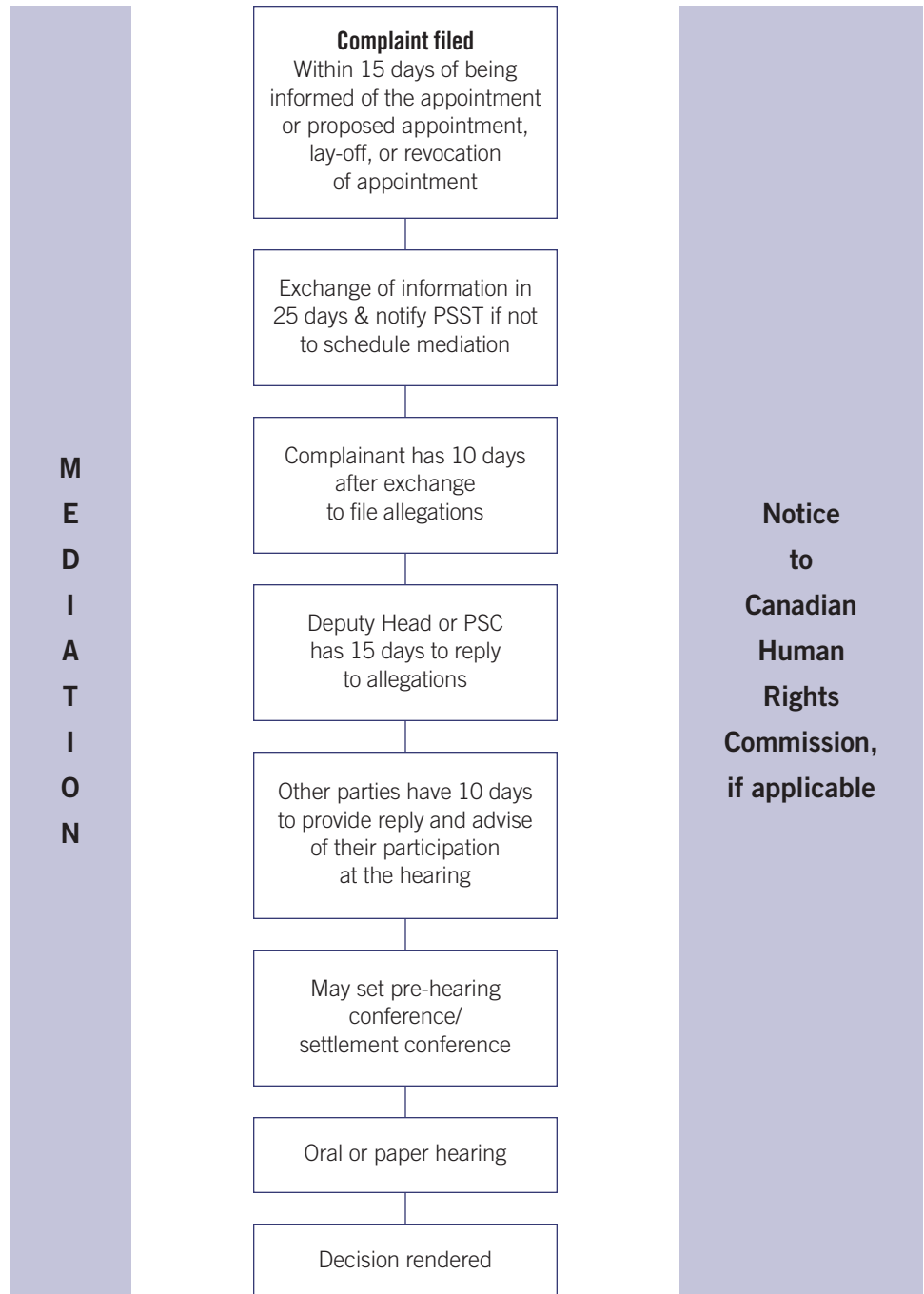
Appendix 2 – Statutory Responsibilities

The *Public Service Employment Act* requires or permits the Tribunal to undertake the following activities:

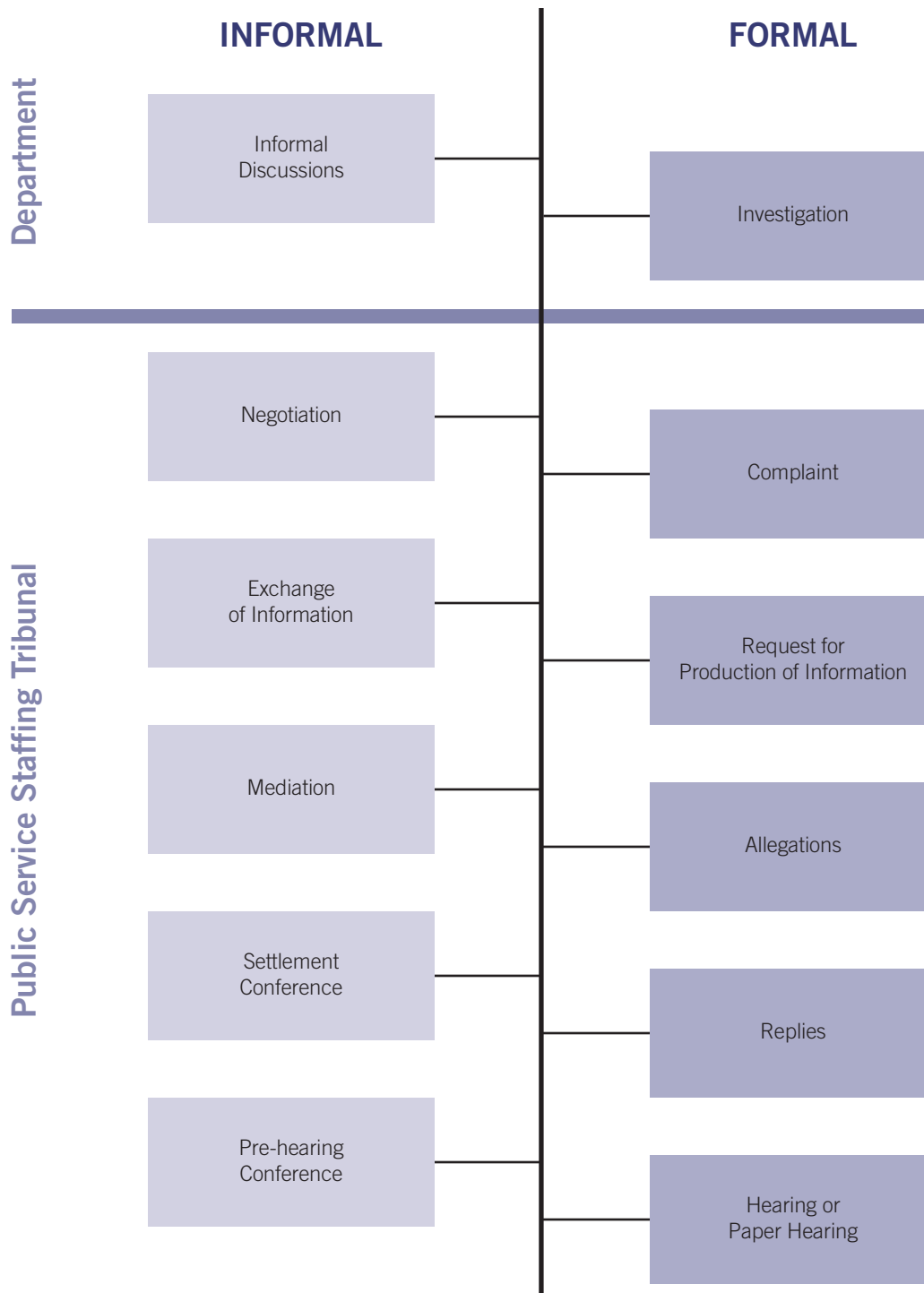
1. consider and dispose of complaints presented to the Tribunal [subs. 88(2)];
2. in the case of a founded complaint involving a lay-off of an employee, set aside the decision of a deputy head to lay off the employee and order the deputy head to take any corrective action that it considers appropriate, other than the lay-off of another employee [subs. 65(4)];
3. in considering whether a complaint against a lay-off is substantiated, interpret and apply the *Canadian Human Rights Act*, other than its provisions relating to the right to equal pay for work of equal value [subs. 65(7)];
4. in the case of a founded complaint involving a revocation of an appointment, order the Public Service Commission or the deputy head to set aside the revocation [s. 76];
5. in the case of a founded complaint involving an internal appointment, order the Public Service Commission or the deputy head to revoke the appointment or not to make the appointment and to take any corrective action that it considers appropriate [subs. 81(1)];
6. in considering whether a complaint against an internal appointment is substantiated, interpret and apply the *Canadian Human Rights Act*, other than its provisions relating to equal pay for work of equal value [s. 80];
7. in the case of a complaint involving a corrective action ordered by the Tribunal, order the Public Service Commission or the deputy head to revoke the appointment made as a result of the implementation of the corrective action, or not to make the appointment, and give the Commission or the deputy head any directions that it considers appropriate with respect to the implementation of the corrective action [s. 84];
8. provide mediation services at any stage of a proceeding in order to resolve a complaint [subs. 97(1)];

9. summon and enforce the attendance of witnesses and compel them to give oral or written evidence on oath in the same manner and to the same extent as a superior court of record [par. 99(1)(a)];
10. order that a hearing be conducted using any means of telecommunication that permits all persons participating to communicate adequately with each other [par. 99(1)(b)];
11. administer oaths and solemn affirmations [par. 99(1)(c)];
12. accept any evidence, whether admissible in a court of law or not [par. 99(1)(d)];
13. compel, at any stage of a proceeding, any person to produce any documents and things that may be relevant [par. 99(1)(e)];
14. subject to any limitations that the Governor in Council may establish in the interests of defence or security, enter any premises of an employer where work is being or has been done by employees, inspect and view any work, material, machinery, appliances or articles in the premises and require any person in the premises to answer all proper questions relating to a complaint [par. 99(1)(f)];
15. summarily dismiss any complaint that, in its opinion, is frivolous or vexatious [subs. 99(2)];
16. decide a complaint without holding an oral hearing [subs. 99(3)];
17. render a decision on a complaint and provide a copy of it, including any written reasons, and any accompanying order to the Public Service Commission and to each person who exercised the right to be heard on the complaint [s.101];
18. make regulations respecting complaint time limits and procedures, procedures for the hearing of complaints, time limits and procedures for notices and other documents, notice of an issue to the Canadian Human Rights Commission and the disclosure of information [s.109];
19. prepare and submit an annual report to Parliament through the Minister of Canadian Heritage regarding activities during the fiscal year [subs. 110 (1)];
20. use any services and facilities of departments, boards and agencies of the Government of Canada that are appropriate for the operation of the Tribunal [subs. 93(2)].

Appendix 3 – The Complaint Process



Appendix 4 – Staffing Complaint Resolution System





Appendix 5 – How to Contact the Tribunal

General information

Web site: www.psst-tdfp.gc.ca
Telephone: 613-949-6516
1-866-637-4491
Facsimile: 613-949-6551
TTY: 1-866-389-6901
E-mail: Info@psst-tdfp.gc.ca

Mailing Address

Public Service Staffing Tribunal
240 Sparks Street
6th Floor West
Ottawa, Ontario K1A 0A5

Registrar

Josée Potvin
Tel.: 613-949-6518
E-mail: josee.potvin@psst-tdfp.gc.ca

Director, Planning, Communications and Corporate Services

Elizabeth Holden
Tel.: 613-949-5513
E-mail: elizabeth.holden@psst-tdfp.gc.ca

Director, Dispute Resolution Services

Serge Roy
Tel.: 613-949-6515
E-mail: serge.roy@psst-tdfp.gc.ca