

20th anniversary

**Transportation Appeal
Tribunal of Canada**

**Annual Report
for the fiscal year
2006-2007**

Transportation Appeal Tribunal of Canada



Annual Report
for the fiscal year

2006-2007

Transportation Appeal
Tribunal of Canada



Tribunal d'appel des
transports du Canada

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June 8, 2007

*The Honourable Lawrence Cannon, P.C., M.P.,
Minister of Transport, Infrastructure and Communities
Transport Canada
Place de Ville, Tower "C"
330 Sparks Street, 29th Floor
Ottawa, Ontario
K1A 0N5*

Dear Minister:

Pursuant to section 22 of the Transportation Appeal Tribunal of Canada Act, I am pleased to submit to Parliament, through your intermediary, the Annual Report of the Transportation Appeal Tribunal of Canada for the fiscal year 2006-2007.

Yours sincerely,

A handwritten signature in black ink that reads "Faye Smith".

*Faye Smith
Chairperson*

Canada

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Message from the Chairperson



The year 2006 is a milestone for the Transportation Appeal Tribunal of Canada in that it is the 20th anniversary for the Tribunal in its continued expansion of the mandate of its predecessor the Civil Aviation Tribunal. It is my pleasure to report once again that we have had a year of changes and a year of growth.

The Transportation Appeal Tribunal of Canada is a quasi-judicial body which adjudicates matters that have a serious impact on the livelihood and operations of the aviation and rail sectors, and is now extending to the marine transportation sector. Importantly, the passage of the *Marine Transportation Security Regulations* in November 2006 with its projected in force date one year later has highlighted the work of the Tribunal in that sector. Preparations for the extensive training programs for part-time members in the marine sector are now underway. As well, we note that the *International Bridges and Tunnels Act* has received Royal Assent. This Act confirms the federal government's exclusive jurisdiction over international bridges and tunnels. It establishes a system of administrative monetary penalties for designated infractions of the legislation which may be reviewed through the Transportation Appeal Tribunal of Canada's two level hearing process.

Following the addition of Tribunal jurisdiction to review the refusal to issue or amend Canadian aviation documents, the number of applications requiring determination of disputed jurisdictional issues has increased the Tribunal's workload. It is anticipated that key jurisprudence establishing Tribunal jurisdiction for a defined list of Canadian aviation documents will emerge over the next couple of years.

Finally, I offer my gratitude to all Tribunal members and employees for their dedication to the provision of an independent review process for the benefit of Canada's transportation community. I am confident that we can continue to meet future challenges with the commitment to excellence evidenced by the past performances of this Tribunal.

A handwritten signature in black ink that reads "Faye Smith". The signature is written in a cursive, flowing style.

Faye Smith
Chairperson

Overview

Introduction

The Transportation Appeal Tribunal of Canada replaces the Civil Aviation Tribunal which was established under Part IV of the *Aeronautics Act* in 1986. On the recommendation of the Minister of Transport, pursuant to section 73 of the *Transportation Appeal Tribunal of Canada Act*, S.C. 2001, c. 29, assented to on December 18, 2001, the Act officially came into force on June 30, 2003. The Transportation Appeal Tribunal of Canada, a multi-modal tribunal, is available to the air and rail sectors, and at a later time, the marine sector. The *Transportation Appeal Tribunal of Canada Act* amends the *Aeronautics Act*, the *Canada Shipping Act*, the *Canada Transportation Act*, the *Marine Transportation Security Act* and the *Railway Safety Act* to establish the jurisdiction and decision-making authorities of the Tribunal under those Acts. The Tribunal's jurisdiction, extending to the rail sector, is expressly provided for under the *Aeronautics Act* and the *Railway Safety Act* (section 2 of the *Transportation Appeal Tribunal of Canada Act*). Therefore, the Tribunal's caseload will increase considerably over the next few years.

Mandate

The Tribunal's principal mandate as a multi-modal review body is to hold review and appeal hearings at the request of interested parties with respect to certain administrative actions taken under various federal transportation Acts.

Program Objective and Description

The objective of the program is to provide the transportation community with the opportunity to have enforcement and licensing decisions of the Minister of Transport reviewed by an independent body.

The Minister's enforcement and licensing decisions may include the issuance of orders, the imposition of monetary penalties or the suspension, cancellation, refusal to renew, or refuse to issue or amend documents of entitlement on medical or other grounds. The person or corporation affected is referred to as the document holder.

These decisions are reviewed through a two-level hearing process: review and appeal. All hearings are to be held expeditiously and informally, in accordance with the rules of fairness and natural justice.

At the conclusion of a hearing, the Tribunal may confirm the Minister's decision, substitute its own decision, or refer the matter back to the Minister for reconsideration.

Overview

Organizational Structure

The Tribunal's Chairperson is also its chief executive officer. The Chairperson is responsible for the direction and supervision of the work necessary to facilitate the functions of the Tribunal. The Chairperson, Vice-Chairperson and immediate staff account for ten full-time equivalents.

Thirty-three part-time members were in office during 2006-2007, twenty-nine in aeronautics, including medicine, and four in rail. Members are drawn from across Canada and are appointed by order in council on the basis of their knowledge and expertise. The office of the Tribunal is located in the National Capital Region.

Basic Principles

The basic principles governing the Tribunal are those of independence and expertise. The sound and competent execution of the Tribunal's mandate determines its effectiveness in dealing with the Canadian transportation community.

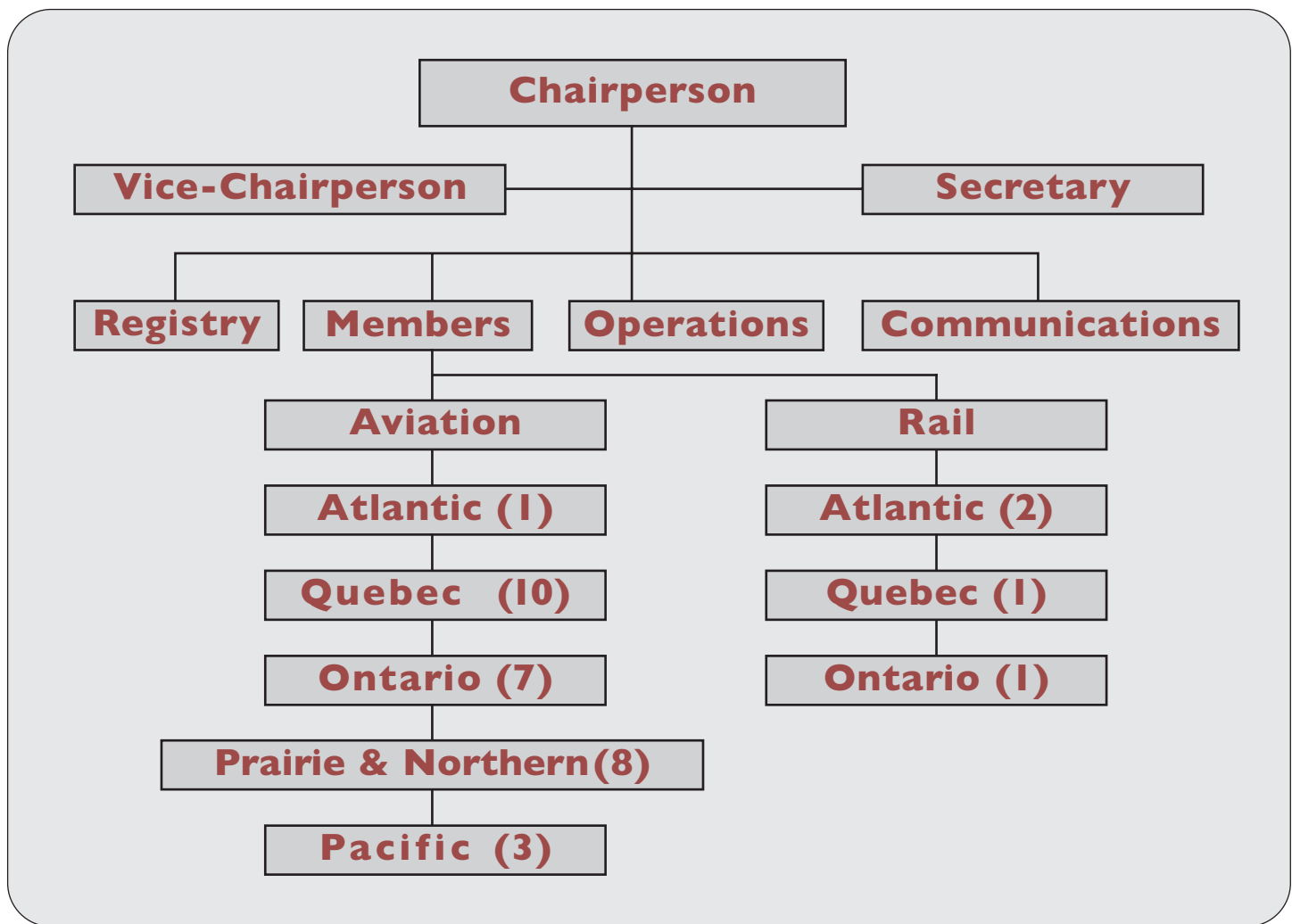
The Tribunal offers its services in both official languages of Canada. It is also itinerant, in the sense that its hearings take place throughout Canada, at the convenience of the parties to the extent possible.

In enforcement matters, the location will normally be where the alleged infraction occurred, or the nearest practical alternative, so that witnesses for the parties may present themselves with minimum displacement costs.

In medical cases, hearings will be held at the location which is nearest to the residence of the document holder and attainable by way of commercial transportation.

Organizational Chart

Figure 1: Organizational Chart



- ◆ The lower half of the organization chart displays the distribution of part-time members and their area of expertise by region. All members report to the Chairperson.
- ◆ Ten full-time equivalents are utilized by the continuing full-time employees including the Chairperson and Vice-Chairperson. The 33 part-time members utilize the equivalent of five full-time equivalents.

Tribunal Members - Full-time



Faye Smith
Chairperson

Reappointed on May 30, 2005 to a two-year full-time term as Chairperson, Mrs. Smith was originally appointed Chairperson of the Civil Aviation Tribunal on May 30, 1995. She was previously employed as counsel at Transport Canada Legal Services. She is a graduate of the University of Ottawa Law School and following call to the Bar of Ontario, she practised law with a private firm in Ottawa.

Mrs. Smith has extensive background work in aviation since 1982, namely, providing advice to Transport Canada's Aviation Group on the *Aeronautics Act* and regulations. She was manager of appeals to the Civil Aviation Tribunal and formerly superintendent of inspector and engineer training for the Aviation Group. Mrs. Smith authored a Digest of Civil Aeronautic Case Law as well as three volumes of Civil Aeronautics Jurisprudence.



Allister W. Ogilvie
Vice-Chairperson

Reappointed on September 30, 2001 to a five-year full-time term as Vice-Chairperson, Mr. Ogilvie was originally appointed Vice-Chairperson of the Civil Aviation Tribunal on September 30, 1996. He received his Bachelor of Laws degree from the University of New Brunswick in 1985 and his Master of Laws degree from McGill University's Institute of Air and Space Law in 1986, was called to the Bar in Ontario in 1988 and in British Columbia in 1996.

A licensed pilot, Mr. Ogilvie served as manager of representation for the Canadian Air Line Pilots Association from 1990 to 1996. He began his aviation career in 1970, flying for various independent northwestern Ontario air services. He was a pilot for Canadian Pacific Airlines, between 1974 and 1980, and the Ontario Ministry of Natural Resources, between 1980 and 1982, and served as an aviation inspector for Transport Canada between 1988 and 1989.

Tribunal Members - Part-time



Tribunal Members - Part-time

Dr. David Ahmed

Regina, Saskatchewan

Reappointed to a three-year part-time term on September 15, 2003, Dr. Ahmed has been practising general surgery in Regina since 1970 and has been a clinical assistant professor of surgery with the University of Saskatchewan College of Medicine. He has also been chief of Section of General Surgery and head of the Department of Surgery at Pasqua Hospital in Regina. Since 2003, he is vice-president of the Regina - Qu'Appelle medical services.

Born in Pakistan, Dr. Ahmed moved to England in 1955 where he studied medicine. He obtained a private pilot licence in 1965 while in England, and now has an airline transport pilot licence as well as a class 1 instructor rating. Dr. Ahmed has been a civil aviation medical examiner for Transport Canada as well as for the Federal Aviation Administration in the United States.

Pierre Beauchamp

Montréal, Québec

Reappointed to a three-year part-time term on May 13, 2004, Mr. Beauchamp was a pilot with Air Canada from 1972 to 2006. He holds an airline transport pilot licence with ratings on landplanes and single-engine seaplanes and some multi-engine aircraft. He has flown B727, B767, DC8, DC9, T33, VC8, EA32, EA33 and EA34 aircraft. He received a Bachelor of Arts (Economics) degree from the University of Montréal (Collège Ste-Marie) in 1966 and a law degree from McGill University in 1969. Mr. Beauchamp was called to the Barreau du Québec in 1972. He practises law and has been a member of various associations within the aviation industry.

Dr. Samuel Birenbaum

Toronto, Ontario

Reappointed to a three-year part-time term on September 5, 2003, Dr. Birenbaum received his Doctor of Medicine degree from the University of Toronto in 1956, has been an industrial medicine consultant beginning in 1960, and has had a private practice in aviation medicine at Buttonville Airport beginning in 1975. He operates a family practice clinic.

Dr. Birenbaum was on the staff at Branson Hospital from 1957 to 1992, and has served on the hospital's honorary consultant staff since 1993. He served in the Royal Canadian Air Force as a flight surgeon, between 1958 and 1963. Dr. Birenbaum is a senior civil aviation medical examiner in both Canada and the United States and a special examiner for the Workers' Compensation Board of Ontario.

Tribunal Members - Part-time

Michel Boulianne

Québec, Québec

Reappointed to a three-year part-time term on November 16, 2003, Mr. Boulianne has practised law since 1968. A lieutenant-colonel in the Canadian Armed Forces (Reserve), he was commanding officer of the 55 Canadian Service Battalion and served as a judge in the Office of the Judge Advocate General. He was also the president of the Canadian Forces Logistics Association in 1977, and the Québec vice-president of the Conference of Defence Associations between 1977 and 1981.

He is a member of the Canadian Bar Association, the Barreau du Québec, the Canadian Association of Industrial Relations Consultants and the Association des conseillers en relations industrielles du Québec, and a former member of the Association des arbitres du Québec.

Howard M. Bruce

Sainte-Foy, Québec

Appointed to a part-time term of three years on October 30, 2006, Mr. Bruce is a partner at a prominent law firm, in the city of Québec, where he practises law, including transportation law relating to the Commission des transports du Québec, *Canada Transportation Act*, *Aeronautics Act* and the *Railway Safety Act*. He received his law degree at the University of Ottawa Law School in 1990 and was called to the Barreau du Québec in 1992. Mr. Bruce has varied and impressive experience in litigation and representation before all levels of Quebec courts.

James C. Campbell

West St. Paul,
Manitoba

Reappointed to a part-time term of three years on September 5, 2003, Mr. Campbell is a licensed commercial pilot with over 34 years of experience flying commercial and private aircraft throughout North America. Mr. Campbell was operations manager for Sowind Air Ltd. From 1981 to 1997, he was owner and operations manager for Campbell Air Limited. He was also a founding partner, corporate secretary, and director of northern operations for Perimeter Airlines (Inland) Ltd., and prior to 1976 was base manager and pilot for St. Andrews Airways and Silver Pine Air.

Evariste Cormier

Shediac,
New Brunswick

Appointed to a part-time term of three years on October 20, 2005, Mr. Cormier holds a Bachelor of Arts degree from the University of Moncton. He retired from Canadian National Railways in 1993 after 37 years of service, including eight years as supervisor of the Moncton main car shop. Mr. Cormier served as a school trustee and president of school districts' finance, transportation and personnel committees. He was also director of the New Brunswick School Trustees' Association, a member of the executive of the Shediac Winter Carnival and president of the Boishebert Club in Shediac.

Tribunal Members - Part-time

Dr. Pierre Coutu
Montréal, Québec

Appointed to a part-time term of three years on September 29, 2005, Dr. Coutu holds a bachelor's degree in industrial relations from the University of Montréal and a doctorate in education from the Nova Southeastern University in Miami. He also completed his postgraduate studies in air transportation at Northwestern University in Chicago. During his 13 years working at Transport Canada, he was director of special projects at the Airports Group's headquarters and served on the Airports Transfer Task Force, established to oversee the transfer of government-owned airports to the private and public sectors. In 1987, he left government to help start the International Aviation Management Training Institute, where he became executive vice-president and chief operating officer. Dr. Coutu is founder of Aviation Strategies International and teaches in the International Aviation Program at the John Molson School of Business at Concordia University.

André Demers
Saint-Lambert, Québec

Appointed to a part-time term of two years on December 6, 2006, Mr. Demers is currently a strategy and planning consultant working for various businesses. He received his degree in civil law in 1966 at the University of Montréal. He has appeared before all civil and criminal courts in the Province of Quebec as well as a number of boards, commissions and administrative tribunals. Mr. Demers was judge of the La Prairie municipal court from 1975 to 1989 and served as well in the municipal courts of Saint-Rémi, Saint-Hilaire and Sainte-Thérèse.

Caroline Desbiens
Sainte-Foy, Québec

Ms. Desbiens was reappointed to a three-year part-time term on August 31, 2003. A lawyer since 1988, she works principally in the areas of aviation and maritime law. Ms. Desbiens received a law degree from the Université Laval in 1987, and a diploma in international law and comparative law from the University of San Diego in 1988. Ms. Desbiens received a master's degree in air and space law from McGill University in 1993.

A member of the Barreau du Québec, Ms. Desbiens is also a member of the Canadian Bar Association, the Association québécoise des transporteurs aériens, the Institute of Air and Space Law Association, the Canadian Maritime Law Association and the Chambre de commerce de Québec.

Tribunal Members - Part-time

E. David Dover
Calgary, Alberta

Reappointed to a part-time term of three years on February 1, 2005, Mr. Dover is president and owner of Pioneer Developments Ltd. During the past 30 years, Mr. Dover has been president and owner of several companies in Alberta and British Columbia.

He is past chairman of the Board of the Calgary Airport Authority, having served as chairman from 1990 to 1998. Mr. Dover co-chaired the negotiating team to establish a local airport authority at the Calgary International Airport. Mr. Dover was a founding member of the Canadian Airports Council and served as chairman in 1995-1996. Among Mr. Dover's hobbies is aircraft racing. He has more than 3 000 hours as pilot-in-command, and is IFR rated. In 1998, Mr. Dover was presented the Canadian Business Aircraft Association Recognition Award.

Robert B. Emigh, Q.C.
*Saskatoon,
Saskatchewan*

Appointed to a part-time term of one year on December 18, 2006, Mr. Emigh is a senior partner at a prominent law firm, and has been in the general practice of law since 1961 in Saskatoon. For the better part of that time his focus has been on corporate and commercial law with an emphasis on banking and secured transactions. He received his law degree at the University of Saskatchewan in 1960. Of note among Mr. Emigh's professional memberships and extensive community involvement is his post of past chairman of the Air Law Section of the Canadian Bar Association, Saskatchewan Branch. He is also a private pilot.

William H. Fellows
Belle River, Ontario

Appointed to a part-time term of three years on September 15, 2003, Mr. Fellows is a retired senior executive from Hiram Walker & Sons Ltd. He is a licensed private pilot (1988) with approximately 1 000 flying hours. Mr. Fellows is rated to fly piston, single, multi-engine, night, float and ski aircraft.

James Edward Foran, Q.C.
Winnipeg, Manitoba

Appointed to a part-time term of three years on September 15, 2005, Mr. Foran is a partner at a prominent law firm in Winnipeg, Manitoba, where he practises administrative law with a focus on transportation law. He received his Bachelor of Laws degree from the University of Manitoba and was called to the Manitoba Bar in 1962 and the Saskatchewan Bar in 1981. In 1985, he was appointed a Queen's Counsel. Over the course of his career, Mr. Foran provided legal counsel for a variety of industry and government clients before the Supreme Court of Canada, the Federal Court, provincial courts, the Canadian Transportation Agency and various provincial boards. He was also involved in drafting several major pieces of provincial and federal transportation legislation.

Tribunal Members - Part-time

Jean-Marc Fortier
*Ville Mont-Royal,
Québec*

Appointed to a part-time term of three years on November 22, 2005, Mr. Fortier received his law degree from the University of Montréal and his master's degree in air and space law from McGill University. He has been a member of the Barreau du Québec since 1971. He received a master's degree in business administration from Richard Ivey School of Business Administration of the University of Western Ontario in London, Ontario. Mr. Fortier acted as legal advisor to many aviation societies, including Quebecair and the Société québécoise des transports. He was vice-president of Télésystèmes Ltée (a private investor in telecommunications), executive vice-president of BCE Media and a member of the Civil Aviation Tribunal of Canada. He has also been a lecturer on aircraft financing at the Institute of Air and Space Law of McGill University. He has been treasurer and president of the Canadian division of the International Law Association from 1990 to 1998 and he is currently honorary president of the Association. Mr. Fortier is currently a senior partner at a prominent law firm in Montréal and Québec City.

Armand Goguen
*Cocagne,
New Brunswick*

Mr. Goguen was appointed to a part-time term of three years on December 2, 2004. He has spent 35 years with CN Rail in Marketing, Sales, Industrial Development and Public Affairs. He retired from CN Rail as public relations officer. Mr. Goguen acted as vice-chairman of the New Brunswick Safety Council and was a director of the Nova Scotia Safety Council. He was also a member of the *Railway Safety Act* Review Committee and Transport Canada's Operation Lifesaver program, Atlantic Canada.

Keith Edward Green
*Sidney,
British Columbia*

Reappointed to a part-time term of three years on January 12, 2005, Mr. Green is the president of QualaTech Aero Consulting Ltd., one of the largest aviation consultancies in Western Canada. QualaTech specializes in human factors and safety management systems training, quality, maintenance, manufacturing, including speciality management positions. He holds an aircraft maintenance engineer licence endorsed with several type ratings in Canada and the United States. Mr. Green has worked for a multitude of Canadian and foreign carriers, including Canada 3000, Air Transat, CP Air, Garuda International Airlines, Air Lingus and Saudia.

Hilery T. Hargrove
*Bristol,
New Brunswick*

Appointed to a three-year part-time term on February 1, 2005, Mr. Hargrove has practised law in Bath-Bristol, New Brunswick, for over 17 years. He received his Bachelor of Laws from the University of New Brunswick in 1986. From 1975 to 1983, Mr. Hargrove was a member of the Royal Canadian Mounted Police. Further, Mr. Hargrove has long been interested in the field of aviation and has been licensed as a private pilot for 21 years accumulating approximately 1 000 hours of flying time and has a night rating, a float rating and single-engine high performance rating.

Tribunal Members - Part-time

John D. Issenman
Ottawa, Ontario

Mr. Issenman was appointed to a part-time term of three years on February 1, 2005. He is president and founder of PROAV International Aviation Services Corporation. He is a former director of the Air Transport Association of Canada and Aerospace Industries Association of Canada and worked for Transport Canada and the original Canadian Aviation Safety Board as an investigator and safety analyst. He is a member of the Canadian Society of Air Safety Investigators and the International Society of Air Safety Investigators. Mr. Issenman has been a licensed commercial pilot since 1977.

Jean-Marc Lalonde
Rosemère, Québec

Mr. Lalonde was reappointed to a part-time term of three years on August 29, 2005. He is a former chairman of the Safety and Operations Management Committee of the Railway Association of Canada, a member of the American Association of Railway Superintendents, and a member of the National Rail Passenger Committee. With 35 years hands-on rail operating experience, he rose from various ranks and qualified as a conductor, to a chief of transportation at Via Rail.

Dr. Michel Larose
Montréal, Québec

Reappointed to a part-time term of two years on January 25, 2007, Dr. Larose graduated in medicine from the University of Montréal in 1965. He is currently a medical assessor at the Commission d'appel en matière de lésions professionnelles. Dr. Larose was previously in private practice and associated with several Montréal area hospitals. He was medical director for several organizations including Quebecair and was a civil aviation medical examiner for Transport Canada.

Sandra Kathleen Lloyd
Vancouver, British Columbia

Reappointed to a three-year part-time term on May 13, 2004, Ms. Lloyd is a pilot with Air Canada. She began flying in 1973, flew float and wheel aircraft commercially in British Columbia and northern Manitoba between 1975 and 1979, and commenced her airline career with CP Air in 1979. Ms. Lloyd has since been a crew member on DC8, DC10, B737 and A320 aircraft. She received a Bachelor of Business Administration degree from Simon Fraser University in 1985 and a Bachelor of Laws degree from the University of British Columbia in 1990. Ms. Lloyd was called to the Bar of British Columbia in 1991. She has practised law in Vancouver and served in a number of aviation-related volunteer positions including as an advisor in the Technical/Safety Division of the Canadian Air Line Pilots Association.

Arthur W. Lyon
Ottawa, Ontario

Appointed to a two-year part-time term on November 10, 2006, Mr. Lyon, also a lawyer, was called to the Bar of Ontario in 1976 having received his law degree from the University of Ottawa Law School in 1974. In 1979 Mr. Lyon attended an air transport course at the Royal Aeronautical Society, Oxford, England, subsequent to which he was coordinator of the Air Transport Task Force at Transport Canada and is currently involved in international assignments as a consultant. In 1981 Mr. Lyon obtained his private pilot licence having trained at Toronto Airways Limited.

Tribunal Members - Part-time

K.M. Tracy Medve
Calgary, Alberta

Ms. Medve was appointed to a part-time term of three years on February 1, 2005. She is the co-founder and managing director of C.T. AeroProjects Inc., an aviation management consulting firm located in Calgary. With 18 years experience in the industry, her expertise in aviation includes aviation asset management, regulatory affairs, strategic planning and implementation, airline start-ups and labour relations. She has a law degree from the University of Saskatchewan.

Frank Morgan
Woodbridge, Ontario

Appointed to a part-time term of three years on September 15, 2003, Mr. Morgan, BSc. P.Eng, is a consulting engineer with extensive experience in the transport and mining sectors. He has held senior positions in divisions of both CN and CP. During his career he has been responsible for the design of maintenance/safety operations across Canada and has personally designed specialized road, rail and refrigeration equipment for CN Rail and Air Canada. He holds voting membership in the Society of Automotive Engineers, Chartered Institute of Transport (London, England) and the Institute of Industrial Engineers.

In addition to his degree in mechanical engineering, Mr. Morgan has successfully completed a senior management transport maintenance and safety program at Penn State University. He is also a licensed active pilot.

W.D. (Bill) Nicholson
*Saskatoon,
Saskatchewan*

Mr. Nicholson was appointed to a three-year part-time term on October 7, 2003. He is chief pilot at Potash Corporation of Saskatchewan. With 34 years of commercial flying and 18 700 hours of flying time, he has held positions in the aviation sector including line pilot, supervisor, manager, and owner/operator. Mr. Nicholson currently mentors students enrolled in the Saskatchewan Institute of Applied Sciences and Technology Commercial Pilot Course and he is enrolled in the National Business Aircraft Association Certified Aviation Manager Program.

Tribunal Members - Part-time

Suzanne Racine
Kirkland, Québec

Ms. Racine was reappointed to a part-time term of five years on November 30, 2004. A lawyer since 1980, she holds a licence in civil law from the University of Ottawa (1979), mediator training (1992) and a master's degree from the Institute of Air and Space Law, McGill University (1987). She was a director of Regulatory and Government Affairs at Air Transat and has acted as a consultant in the areas of travel and air transport. Ms. Racine is a member of the Barreau du Québec and the Institute of Air and Space Law Association.

Dr. Michael T. Richard
Ottawa, Ontario

Appointed to a part-time term of three years on February 1, 2005, Dr. Richard has been practising neurosurgery in Ottawa since 1967. An associate professor of surgery, he was the head of Neurosurgery at the Ottawa General Hospital and chairman of Neurosurgery at the University of Ottawa. He has written or co-authored 75 papers and served as a member or chairman on numerous committees at the university, provincial and national levels. Dr. Richard was a commissioned officer of the Canadian Navy Executive Branch and is also a former director of the Ottawa Flying Club. He maintains his private pilot licence, which he has held since 1969.

Hebb C. Russell
L'Orignal, Ontario

Appointed to a part-time term of three years on September 15, 2003, Mr. Russell is a retired Air Canada captain. He has worked for the medical department of the Canadian Air Line Pilots Association (CALPA) to help airline pilots regain their licences. As a commercial pilot, he is rated to fly a variety of multi-engined commercial aircraft. Mr. Russell enjoys flying his Taylorcraft on wheels and on skis in the winter.

Dr. John Saba
Brossard, Québec

Appointed to a part-time term of three years on September 29, 2005, Dr. Saba holds a Master of Arts degree in economics and political science, a Doctor of Civil Law degree, and a diploma in air and space law from McGill University. At McGill, he is a lecturer in economics and an adjunct professor of law at the Institute of Air and Space Law, secretary general of the Institute of Air and Space Law Association and the editor-in-chief of its newsletter. He is a professor in economics and political science at Champlain Regional College in St-Lambert, Québec, and director of its world studies program. Dr. Saba has served as manager and chairman for a number of worldwide air and space conferences and seminars for the International Civil Aviation Organization, the American Bar Association and McGill University. He has also served as president of a number of companies.

Tribunal Members - Part-time

T. Richard Turner
*West Vancouver,
British Columbia*

Appointed on September 15, 2003 to a part-time term of three years, Mr. Turner holds a Bachelor of Commerce degree in finance from the University of British Columbia and has received a diploma from The Canadian Securities Institute. He is the president and chief executive officer of International Aviation Terminals Inc.

Mr. Turner is a governor and past chair of the Vancouver Board of Trade and also a past chair of Airports Council International (ACI) – North America Associates, and Pacific Associates, and the British Columbia Aviation Council. He is currently the chair of both the British Columbia Lottery Corporation and the Insurance Corporation of British Columbia. Mr. Turner is a board member of the Vancouver Organizing Committee for the 2010 Olympic and Paralympic Winter Games and serves on several other boards.

William T. Tweed
Winnipeg, Manitoba

Reappointed to a part-time term of three years on September 15, 2003, Mr. Tweed received his law degree from the University of Victoria in 1987 and was called to the Bar of Manitoba in 1988. He currently practises law in Winnipeg. Mr. Tweed obtained a commercial pilot licence in 1967 and has accumulated approximately 8 000 hours during his 20-year varied career as a pilot.

Richard Willems
Alton, Ontario

Reappointed to a part-time term of three years on January 25, 2007, Mr. Willems is the senior captain flying a Canadair Challenger for Rogers Communications in Toronto. His flying career began in central Saskatchewan in 1963 and has continued through North, Central and South America as well as Africa, Asia and Europe. Mr. Willems has held Transport Canada check pilot authority since 1976 on various piston, turbo-prop and jet aircraft. He has accumulated over 21 000 hours on 118 types of airplanes and gliders. In his spare time he enjoys flying his ASW 27b sailplane on long cross-country flights.

The following members' terms have expired during the period covered by this report:

- ◆ Dr. David Ahmed;
- ◆ Dr. Samuel Birenbaum;
- ◆ Mr. Michel Boulianne;
- ◆ Mr. James C. Campbell;
- ◆ Ms. Caroline Desbiens;
- ◆ Mr. William H. Fellows;
- ◆ Mr. Frank Morgan;
- ◆ Mr. W.D. (Bill) Nicholson;
- ◆ Mr. Allister W. Ogilvie;
- ◆ Mr. Hebb C. Russell;
- ◆ Mr. T. Richard Turner; and
- ◆ Mr. William T. Tweed.

Staff of the Tribunal

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Tribunal Rules

Applications

10. (1) An application for any relief or order, other than a request for a review under section 6.71, 6.9, 7, 7.1 or 7.7 or an appeal under section 7.2 or 8.1 of the *Aeronautics Act*; a review under section 27.1, 31 or 32 or an appeal under section 27.5, 31.2 or 32.2 of the *Railway Safety Act*, shall be in writing and filed with the Tribunal unless, in the opinion of the Tribunal, circumstances exist to allow an application to be dealt with in some other manner.

(2) An application shall fully set out the grounds on which it is based and shall specify the relief or order requested.

(3) Subject to subsection (4), where a party makes an application, the Tribunal shall serve notice of the application on each other party and shall afford each other party a reasonable opportunity to make representations.

(4) The Tribunal may dispose of an application on the basis of the material submitted by each party or, if in its opinion there exist exigent circumstances, on the basis of the material submitted by the applicant only.

(5) The Tribunal, upon considering the material submitted to it, shall render its determination of an application in writing and shall serve on each party a copy of the determination forthwith after the determination has been rendered.

Extending or Abridging Time

11. The Tribunal may extend or abridge a time prescribed by or pursuant to these Rules for performing any act or doing any thing on such terms, if any, as seem just.

Preliminary Procedures

12. The Tribunal may, orally or in writing, direct that the parties appear before a member of the Tribunal at a specified date, time and place for a conference, or consult each other and submit suggestions in writing to the Tribunal, for the purpose of assisting it in the consideration of

- (a) the admission or proof of certain facts;
- (b) any procedural matter;
- (c) the exchange between the parties of documents and exhibits proposed to be submitted during a proceeding;
- (d) the need to call particular witnesses; and
- (e) any other matter that may aid in the simplification of the evidence and disposition of the proceeding.

Tribunal Rules

Adjournments

13. At any time, the Tribunal may, on the application of any party or on its own motion, adjourn a proceeding on such terms, if any, as seem just.

Witnesses

14. (1) At the request of a party, the registrar shall issue a summons in blank for a person to appear as a witness before the Tribunal and the summons may be completed by the party requesting it.

(2) A summons shall be served personally on the person to whom it is directed at least 48 hours before the time fixed for the attendance of the person.

(3) At the time of service of a summons on a person, the party requesting the appearance of the person shall pay fees and allowances to the person in accordance with Rule 42 of the *Federal Court Rules, 1998*.

15. (1) Where a person has been summoned to appear as a witness before the Tribunal and does not appear, the party that requested the issuance of the summons may apply to the Tribunal for a warrant directing a peace officer to cause the person who failed to appear to be apprehended anywhere in Canada and, subsequent to the apprehension, to be

- (a) detained in custody and forthwith brought before the Tribunal until his presence as a witness is no longer required; or
- (b) released on a recognizance, with or without sureties, conditional on the person's appearance at the date, time and place specified therein to give evidence at a proceeding.

(2) An application made pursuant to subsection (1) shall contain information indicating that

(a) the person named in the summons

- (i) was served with the summons in accordance with subsection 14(2),
- (ii) was paid or offered witness fees and allowances in accordance with subsection 14(3), and
- (iii) failed to attend or remain in attendance before the Tribunal in accordance with the requirements of the summons; and

(b) the presence of the person named in the summons is material to the proceeding.

Proceeding

16. (1) Witnesses at a proceeding shall be subject to examination and cross-examination orally on oath or solemn affirmation.

(2) The Tribunal may order a witness at a proceeding to be excluded from the proceeding until called to give evidence.

Tribunal Rules

Argument

(3) The Tribunal may, with the consent of each party, order that any fact be proved by affidavit.

(4) The Tribunal may inspect any property or thing for the purpose of evaluating the evidence.

17. The Tribunal may direct a party to submit written argument in addition to oral argument.

Appeals

18. (1) An appeal to the Tribunal pursuant to section 7.2 or 8.1 of the *Aeronautics Act*, or section 27.5, 31.2 or 32.2 of the *Railway Safety Act* shall be commenced by filing in writing with the Tribunal a request for appeal.

(2) A request for appeal shall include a concise statement of the grounds on which the appeal is based.

(3) A copy of a request for appeal shall be served by the Tribunal on each other party within ten days after filing the request.

19. Where a request for appeal has been filed with the Tribunal, the Tribunal shall serve on the parties to the appeal

- (a) a notice of the date, time and place of the hearing of the appeal; and
- (b) a copy of the record referred to in section 20 of the *Transportation Appeal Tribunal of Canada Act*, respecting the proceedings to which the appeal relates.

Determination

20. (1) The Tribunal shall render its determination in writing at the conclusion of a proceeding or as soon as is practicable after a proceeding.

(2) For the purpose of calculating the period within which a party may appeal a determination, the determination is deemed to be made on the day on which it is served on the party.

(3) The Tribunal shall serve on each party a copy of a determination forthwith after the determination has been rendered.

Note

These Rules contain consequential amendments in the Transportation Appeal Tribunal of Canada Act and have been embodied for convenience of reference only. For purposes of interpretation of the law, the original Rules should be consulted.

2006-2007 in Review

Activities

The present annual report covers the 12 months between April 1, 2006 and March 31, 2007. In the 12-month reporting period, the Tribunal registered **89** new requests for review and **15** requests for appeal from the transportation community. This represents a decrease of **40** new case files registered over fiscal year 2005-2006.

Effective June 30, 2003, the *Aeronautics Act* amendments changed the procedure for the *Designated Provisions Regulations* so that the Minister is no longer the applicant, rather the person who receives the notice of assessment of monetary penalty either pays the stated penalty or files a request for review with the Tribunal. This has reduced the number of files which the registry had heretofore opened and closed shortly thereafter when the hearing request was automatically triggered by non-payment of the penalty. Consequently, the number of requests for certificates of non-payment has increased offsetting the decrease in number of case files. That is to say that in fiscal year 2005-2006, there were **128** new cases and **42** requests for certificates while in fiscal year 2006-2007, there were **89** new cases and **30** requests for certificates.

In addition to the new cases registered in this reporting period, **107** cases were carried over from the previous reporting period, bringing the total caseload to **211**. This represents a decrease of **61** cases over 2005-2006.

The Tribunal heard **28** first level reviews and **11** second level appeals for a total of **47** hearing days. This represents a decrease of **24** hearings over the previous fiscal year. Of the **39** cases that proceeded to a hearing, many cases were postponed and rescheduled at a later date. At the end of 2006-2007, **92** cases were pending further action, **5** were awaiting decisions and **11** had been scheduled for the 2007-2008 fiscal year.

In the 2006-2007 reporting period, **52** cases were concluded without a hearing. It should be noted that of these **52** cases many were requests filed with the Tribunal and concluded shortly before the hearing was to take place, which means that all registry work that leads up to the hearing was completed. The registry prepared for **53** hearings. In many cases an agreement was reached between the parties. In other cases, Transport Canada or the document holder withdrew their application.

The **52** cases concluded without a hearing were resolved in a number of ways:

- ◆ the document holder paid the fine before the hearing;
- ◆ the document holder's licence was reinstated before the hearing;
- ◆ the request for hearing was withdrawn by the document holder;
- ◆ the notice was withdrawn by the Minister;
- ◆ an agreement was reached between the parties.

2006-2007 in Review

Effectiveness

The program’s effectiveness can be measured by its ability to provide the transportation community with the opportunity to have ministerial decisions reviewed fairly, equitably and within a reasonable period of time.

The average lapsed time between the conclusion of a review hearing and the issuance of a determination is **115** days and **76** days for an appeal. This brings the hearing process to a timely conclusion for both parties appearing before the Tribunal.

The Tribunal encourages the use of pre-hearing conferences to assist the parties appearing before it, to identify the issues for determination by the Tribunal and to disclose and exchange documents. This reduces the length of hearings and avoids last-minute adjournments necessitated by late disclosure.

Such conferences have also been particularly effective in settling licence suspensions and cancellations on medical grounds without the necessity of a hearing. The Tribunal registrars contact the parties to schedule mutually agreed hearing dates to the extent possible to avoid unnecessary adjournments.

In 2005-2006, the Tribunal referred four cases back to the Minister of Transport for reconsideration pursuant to section 7.1 of the *Aeronautics Act*, the Tribunal lacking the power to substitute its own decision for that of the Minister in these cases. The Minister confirmed its original decision in two cases, upheld the appeal decision in one case, and we are awaiting the outcome in one case.

In 2006-2007, the Tribunal referred five cases back to the Minister. The Minister confirmed its original decision in one case, upheld the review determination in one case, and we are awaiting the outcome in the three remaining decisions.

2006-2007 in Review

Training and Development



A two-day training session was held in Ottawa on March 14 and 15, 2007. Three recent appointees in the aviation sector attended the sessions. The success of this Tribunal from its beginning as the Civil Aviation Tribunal in 1986 to the present can be attributed to the importance placed on the training and development of its members and staff. The skillfully developed training programs and seminars are reflected in the quality of hearings that are conducted across the country and the decisions rendered by Tribunal members.

The Chairperson supervised a student of the University of Ottawa, Faculty of Law, for the Federal Tribunals Practice Seminar. The student prepared a research paper on the requirements for service under the *Aeronautics Act*, as well as a review of that Act relating to the expungement of a record. This was the 11th year that this Tribunal has participated with the University of Ottawa Law School in the delivery of this practice seminar.

Annual Seminar

The Transportation Appeal Tribunal of Canada's third annual seminar was held in Ottawa, Ontario, at the Château Laurier Hotel on June 1 and 2, 2006. The two-day seminar was held to exchange ideas, information and experiences of the members relative to Tribunal matters.

The Tribunal Chairperson, Faye Smith, presented updates on administrative law and Tribunal practice. She led a group discussion on the increasing complexity of hearings as well as the application of alternate dispute resolution in an administrative setting.

2006-2007 in Review

Jean-Marc Lalonde gave an overview of railway orders for the benefit of his colleagues. Suzanne Racine reported back to the members on the 8th Administrative Tribunal Members Forum. As well, Keith Green shared tips and guidelines gained from his recent attendance at a decision writing session.

The Tribunal members also participated in a discussion led by recently appointed members on novel issues they have encountered as hearing officers. As the members increase their Tribunal experience, the sharing of these experiences and expertise enhances the knowledge and qualifications of all members.

The membership was pleased to welcome Rich Gage from the Canadian Business Aircraft Association who provided an update on the private operator certificate program of the Association.

On June 1, 2006, the Tribunal celebrated the 20th anniversary of its combined experience as an aviation and subsequently an all modes Tribunal serving the transportation industry in Canada. Representatives from various industry associations as well as government officials joined the Tribunal members and staff for a luncheon followed by a guest panel and a question and answer period for Tribunal members. Representatives from the Air Transport Association of Canada, the Canadian Owners and Pilots Association, the Association québécoise des transporteurs aériens, the Canadian Business Aircraft Association, the Airline Pilots Association, the Air Canada Pilots Association, as well as Franz Reinhardt and Beverlie Caminsky from Transport Canada were in attendance.

Future Plans

Bill C-6, *An Act to amend the Aeronautics Act and to make consequential amendments to other Acts* currently at the House committee stage, proposes increased monetary penalties for contraventions of designated provisions. Bill C-20 being the *Airports and Transportation Appeal Tribunal Bill* is currently at second reading and it is anticipated that this Tribunal will have jurisdiction over these matters within the next two years. Additionally, the *International Bridges and Tunnels Act* has received Royal Assent on February 1, 2007. This legislation provides the federal government with the legislative authority to ensure effective oversight of the existing 24 international vehicular bridges and tunnels and nine international railway bridges and tunnels, as well as any new international bridges or tunnels built in the future. Finally, the *Regulations amending the Marine Transportation Security Regulations* were registered in the fall of 2006 and will be in force one year later, being November 2007. It is likely that the Tribunal will be hearing matters related to Canadian maritime documents suspended for medical reasons at a time consistent with the in-force date of the *Canada Shipping Act, 2001*. We are keeping a watching brief on the ongoing expansion of the Tribunal jurisdiction which is estimated to significantly affect the workload of the Tribunal.

2006-2007 in Review

Resources

**Figure 2:
Financial
Resources**

Details of Financial Requirements by Object

(Thousands of dollars)	Estimates 2006-2007	Actual Expenses 2006-2007	Estimates 2005-2006
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Personnel

Salaries and Wages	682.0	698.2	649.0
Contributions to employee benefit plans	129.0	126.0	130.0

Total Personnel	811.0	824.2	779.0
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Goods and Services

Transportation and communications	143.0	121.0	160.0
Information	25.0	20.8	0.0
Professional and special services	341.6	331.7	340.0
Rentals	25.0	13.9	18.0
Purchased repairs and upkeep	15.0	2.7	3.2
Utilities, materials and supplies	33.0	22.7	40.0
Informatics	0.0	0.0	26.0

Total Goods and Services	582.6	512.8	587.2
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Totals	1 393.6	1 337.0	1 366.2
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FTE'S*

Governor in Council (GIC)	2
Administration and Foreign Services (AS)	6
Clerical (CR)	2

Total	10
--------------	-----------

* FTE'S (Full-time equivalent is a measure of human resource consumption.)

* Funding for \$173 000 was requested to hire additional employees and to provide training sessions for part-time members for the marine sector.

**Figure 3:
Distribution of
Full-Time Equivalents**

Statistical Data

The tables are separated into various interests.

The tables are presented under various categories and regions.

Pages 28 to 35 contain data tables, based on the Tribunal's new requests received during 2006-2007 and files carried over from 2005-2006.

- ◆ Comparison of files worked on for past five fiscal years
- ◆ Hearing results by region and disposition

- ◆ Suspensions
- ◆ Cancellations
- ◆ Fines
- ◆ Refusal to issue or amend
- ◆ Medicals
- ◆ Rail orders

SUSPENSIONS

- AME*
- AMO**
- CCP****
- operator certificate
- operator security
- personnel security
- pilot competence
- pilot enforcement
- pilot instrument rating
- pilot proficiency check

CANCELLATIONS

- AME
- certificate of airworthiness
- operator
- personnel security
- pilot

FINES

- AME unpaid fine
- ATC*** unpaid fine
- aircraft owner unpaid fine
- operator security unpaid fine
- operator unpaid fine
- pilot unpaid fine

REFUSAL TO ISSUE

- AME
- medical certificate
- pilot and others

MEDICALS

- ATC
- pilot

-
- * AME (aircraft maintenance engineer)
 - ** AMO (approved maintenance organization)
 - *** ATC (air traffic controller)
 - **** CCP (company check pilot authority)

Statistical Data

Fiscal Year 2006-2007

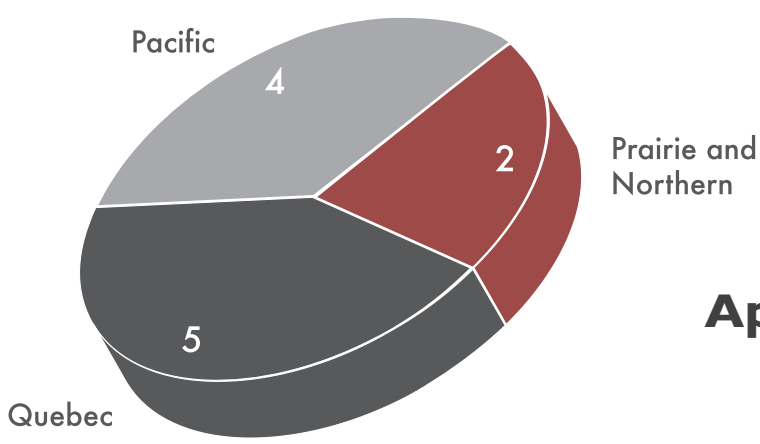
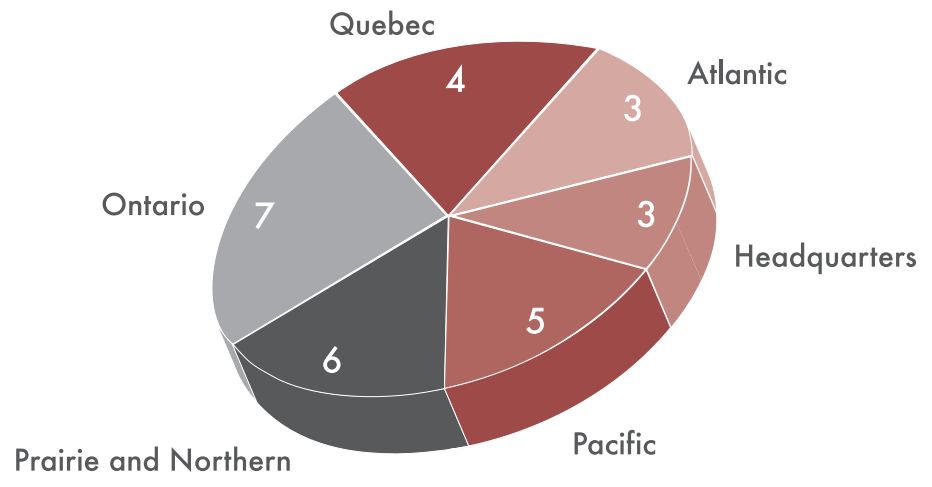
Figure 4: Total Cases by Category

Category	Pacific	Prairie and Northern	Ontario	Quebec	Atlantic	HQ	Totals	%
Medicals	11	9	9	8	0	1	38	18
Suspensions	8	8	12	6	7	2	43	20
Fines	17	28	20	28	3	6	102	48
Cancellations	3	1	2	0	0	0	6	4
Refusal to issue	7	4	3	2	1	2	19	9
Rail orders	2	0	0	0	0	1	3	1
Totals	48	50	46	44	11	12	211	100
%	23	24	22	21	5	5	100	

Statistical Data

Figure 5: Reviews and Appeals
Concluded with a Hearing

Reviews

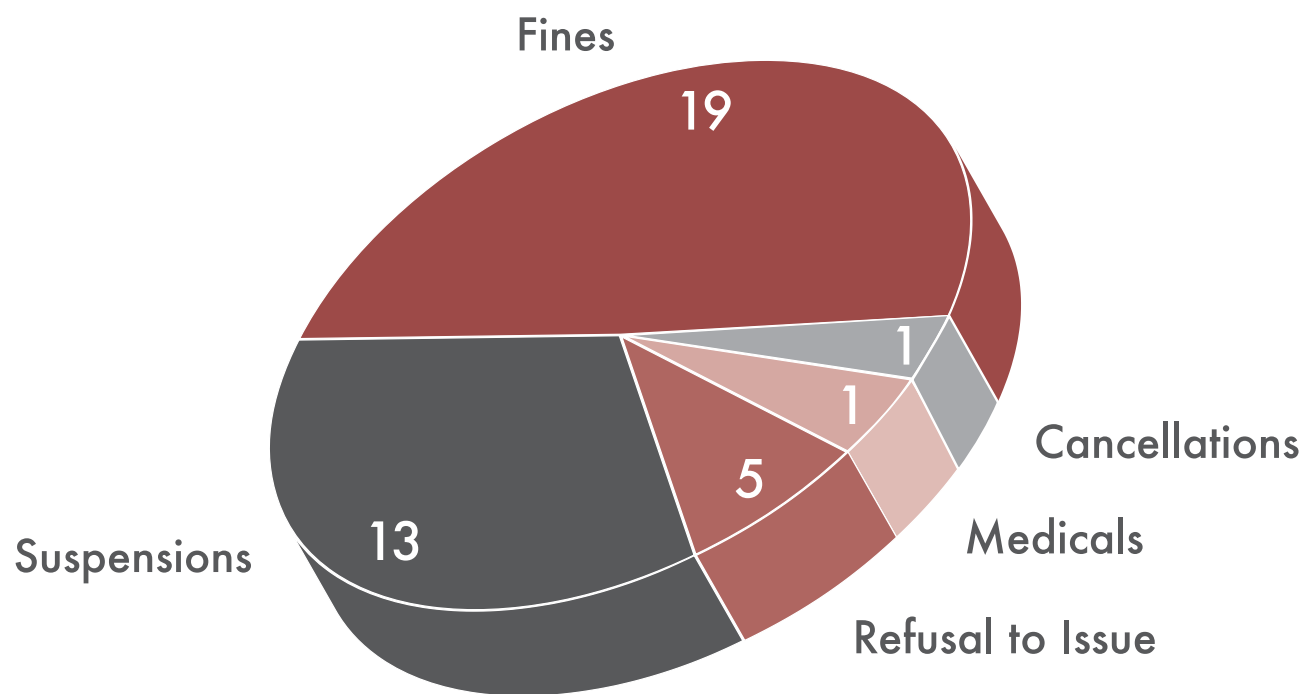


Appeals

Hearing Level	Pacific	Prairie and Northern	Ontario	Quebec	Atlantic	HQ	Totals	%
Reviews	5	6	7	4	3	3	28	72
Appeals	4	2	0	5	0	0	11	28
Totals	9	8	7	9	3	3	39	100

Statistical Data

Figure 6: Hearings by Category



Category	Pacific	Prairie and Northern	Ontario	Quebec	Atlantic	HQ	Totals
Medicals	1	0	0	0	0	0	1
Suspensions	3	1	3	2	3	1	13
Fines	4	7	1	6	0	1	19
Cancellations	0	0	1	0	0	0	1
Refusal to issue	1	0	2	1	0	1	5
Totals	9	8	7	9	3	3	39

Statistical Data

Figure 7: Hearing Results by Disposition

Suspensions

Disposition	Pacific	Prairie and Northern	Ontario	Quebec	Atlantic	HQ	Totals
Referred back to the Minister	1	0	0	0	0	0	1
Minister's allegation upheld	0	1	2	0	0	0	3
Minister's decision confirmed	0	0	0	0	2	0	2
Appeal allowed; sanction cancelled	1	0	0	0	0	0	1
Appeal dismissed; sanction confirmed	1	0	0	0	0	0	1
Appeal dismissed; Minister's decision confirmed	0	0	0	2	0	0	2
Awaiting decision	0	0	1	0	1	1	3
Totals	3	1	3	2	3	1	13

Statistical Data

Figure 7: (Continued)

Fines

Category	Pacific	Prairie and Northern	Ontario	Quebec	Atlantic	HQ	Totals
Minister's allegation upheld	0	2	0	*1.5	0	0	3.5
Minister's allegation upheld; sanction reduced	1	0	0	*1.5	0	0	2.5
Minister's allegation dismissed	1	1	1	0	0	0	3
Minister's appeal dismissed	1	0	0	0	0	0	1
Appeal dismissed; sanction confirmed	0	1	0	3	0	0	4
Appeal dismissed; sanction reduced	0	1	0	0	0	0	1
Appeal allowed; sanction cancelled	*0.5	0	0	0	0	0	0.5
Minister's appeal allowed; sanction reinstated	*0.5	0	0	0	0	0	0.5
Awaiting decision	0	2	0	0	0	1	3
Totals	4	7	1	6	0	1	19

*Two files with different findings.

Statistical Data

Figure 7: (Continued)

Medicals

Disposition	Pacific	Prairie and Northern	Ontario	Quebec	Atlantic	HQ	Totals
Minister's decision confirmed	1	0	0	0	0	0	1
Totals	1	0	0	0	0	0	1

Refusal to Issue

Disposition	Pacific	Prairie and Northern	Ontario	Quebec	Atlantic	HQ	Totals
Minister's decision confirmed	0	0	2	0	0	1	3
Referred back to the Minister	1	0	0	1	0	0	2
Totals	1	0	2	1	0	1	5

Historical Data

Figure 8: Comparison of Cases Worked on for the Past Five Years

Regions	2006-2007	2005-2006	2004-2005	2003-2004	2002-2003
Pacific	48	57	35	37	101
Prairie & Northern	50	64	69	95	114
Ontario	46	92	106	122	105
Quebec	44	43	43	54	80
Atlantic	11	11	11	20	24
HQ	12	5	5	4	23
Totals	211	272	269	332	447

Since its inception in 1986 the Tribunal has registered 5 821 case files.

Figure 9: Total Case Files Since 1986

Summary	Pacific	Prairie and Northern	Ontario	Quebec	Atlantic	HQ	Totals
Total case files	682	1 761	1 536	1 277	443	122	5 821
%	12	30	26	22	8	2	100

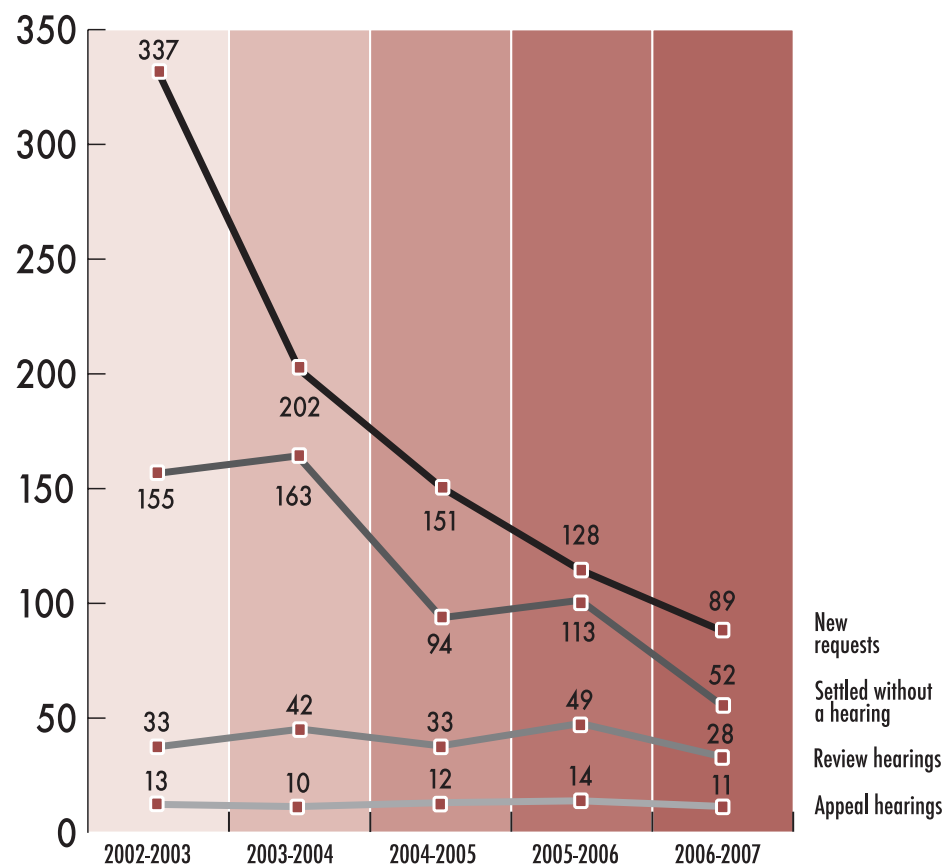
Figure 10: Total Cases Concluded with Hearings by Region Since 1986

Summary	Pacific	Prairie and Northern	Ontario	Quebec	Atlantic	HQ	Totals
Total hearings	167	597	326	352	133	20	1 595
%	10	37	20	23	8	2	100

Of the 1 595 cases concluded with hearings, 1 280 were reviews (80%) and 315 were appeals (20%).

Historical Data

Figure 11: Caseload for the Past Five Years



	2006-2007	2005-2006	2004-2005	2003-2004	2002-2003
New requests	89	128	151	202	337
Settled without a hearing	52	113	94	163	155
Review hearings	28	49	33	42	33
Appeal hearings	11	14	12	10	13

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