



Transportation Appeal Tribunal of Canada

Annual Report
for the fiscal year
2007-2008

Transportation Appeal
Tribunal of Canada



Tribunal d'appel des
transports du Canada

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June 6, 2008

*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 2007-2008.

Yours sincerely,

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

*Faye Smith
Chairperson*

Canada

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Message from the Chairperson



It is once again my privilege to report the ongoing activities of the Transportation Appeal Tribunal of Canada, formerly the Civil Aviation Tribunal. Being a quasi-judicial body, the Tribunal adjudicates matters that have a serious impact on the livelihood and operations of the aviation, rail and marine sectors of the federal transportation system.

I am pleased to confirm that the Tribunal has made progress and innovations over the past year while keeping up with its expanding mandate to include cases under the *Marine Transportation Security Act* and the *Canada Shipping Act, 2001*. Although in its initial stages, we will soon be able to revolutionize electronic access to all of our services for Canadians.

To accommodate its changing membership, the Tribunal has held a number of training sessions over the past year and continues to train its steady flow of newly appointed members. I am confident that the professionalism which is shown in the conduct of the hearings and the well reasoned decisions which follow are a direct result of the quality of these training sessions.

The knowledge and expertise possessed by Tribunal members enhance their independence by enabling them to understand and assess the validity of the reasons for the enforcement and licensing actions. They also enhance the confidence which the parties place in the decisions rendered by the Tribunal.

The Tribunal continues to encourage the parties to confer in a supervised setting and to convene through teleconferences which produce cost-effective and timely results for the parties.

The continuing efforts of the staff and the members to make this Tribunal a model of excellence fill me with enthusiasm for the year ahead and with gratitude for the deeds we have accomplished over the past year. I am pleased to recognize the dedication of the Tribunal members and staff.

A handwritten signature in black ink that reads "Faye Smith". The signature is fluid and cursive, with the first name "Faye" being more prominent than the last name "Smith".

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*, 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, rail and marine sectors. Section 2 of the *Transportation Appeal Tribunal of Canada Act* amends the *Aeronautics Act*, the *Canada Shipping Act, 2001*, 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 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 the refusal 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 12 full-time equivalents.

Twenty-nine part-time members were in office during 2007-2008, twenty-five in aeronautics, including medicine, three in rail, and one in marine. 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.

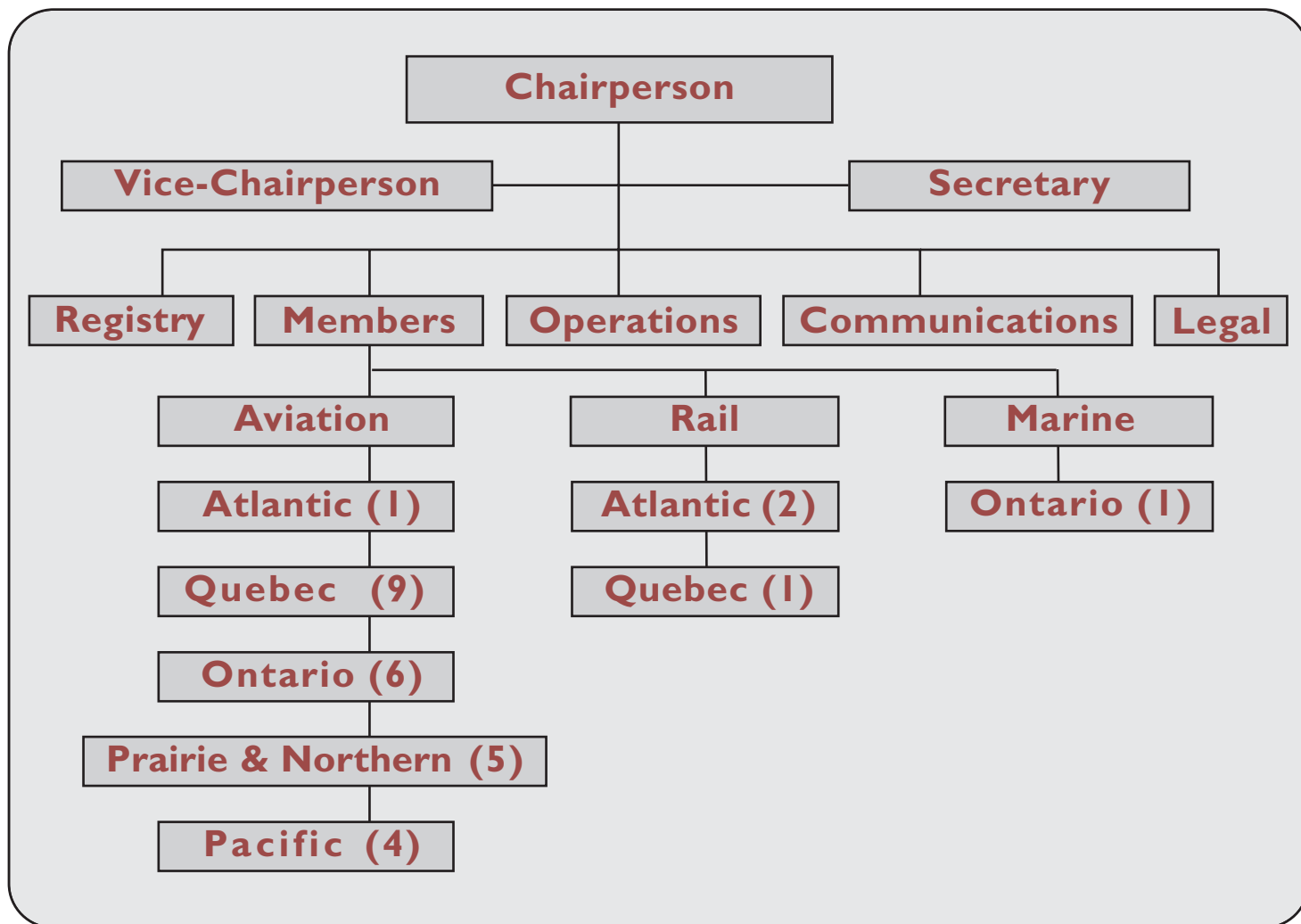
The Tribunal offers its services in both official languages of Canada. It is also itinerant, in the sense that its hearings take place throughout Canada, at the convenience of the parties to the extent possible.

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.

Organization Chart

Figure 1: Organization 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.
- ♦ Twelve full-time equivalents are utilized by the continuing full-time employees including the Chairperson and Vice-Chairperson. The twenty-nine part-time members utilize the equivalent of five full-time equivalents.

Tribunal Members - Full-time



Faye Smith
Chairperson

Reappointed to a further one-year full-time term as Chairperson, effective May 30, 2008, 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 Aeronautics Case Law as well as three volumes of Civil Aeronautics Jurisprudence.



Eleanor D. Humphries
Vice-Chairperson

Ms. Humphries was appointed to a five-year full-time term as Vice-Chairperson of the Tribunal, effective March 3, 2008. She holds a bachelor of science and a masters in business administration degree from Dalhousie University in Halifax, Nova Scotia. She also has an executive management diploma from McGill University in Montréal, Quebec.

Ms. Humphries worked in various management positions of increasing seniority within the financial services industry, including management positions within the Bank of Nova Scotia from 1985 to 1999 and the Montreal Trust Company from 1999 to 2000. She was the president and chief executive officer of Credit Union Atlantic from 2000 to 2005 and of Halifax International Airport Authority from 2005 to 2007. In 2004, Ms. Humphries received a Distinguished Alumni Award from Armbrae Academy. In 2006, she received the Canadian Progress Club Women of Excellence Award for leadership. She has been honored on five occasions as one of the Top 50 CEOs in Atlantic Canada and in 2007 she was inducted into the Top 50 CEOs Atlantic Canada Hall of Fame. Ms. Humphries holds several board positions with business, charitable and educational organizations.

Tribunal Members - Part-time



Tribunal Members - Part-time

Pierre Beauchamp
Montréal, Quebec

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.

Howard M. Bruce
Sainte-Foy, Quebec

Appointed to a part-time term of three years on October 30, 2006, Mr. Bruce is a partner at a law firm, in the city of Québec, where he practises law, including transportation law relating to the Commission des transports du Québec, the *Canada Transportation Act*, the *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.

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 8 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.

Dr. Pierre Coutu
Montréal, Quebec

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.

Tribunal Members - Part-time

André Demers
*Saint-Lambert,
Quebec*

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.

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 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.

Tribunal Members - Part-time

Michel Ferland
*Sainte-Marcelline,
Quebec*

Appointed to a part-time term of four years on June 4, 2007, Mr. Ferland holds a bachelor of arts degree from Collège Jean-De-Brébeuf, and a licentiate in laws degree from the Université de Sherbrooke. He was called to the Barreau du Québec in 1973. He currently is a law associate with a law firm in Joliette, Quebec. He entered into private practice in 1973. He became a prosecutor for the city of Joliette in 1985, and was a member of the Human Rights Tribunal Committee from 1991 to 1993. Mr. Ferland is a member of the Canadian Bar Association, a member of and former legal advisor to the Barreau des Laurentides, and a former member of the Comité pour la pratique privée – Barreau du Québec – Tarification. He has been involved in a number of community organizations in the Lanaudière region since 1973.

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 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.

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

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 law firm in Montréal and Québec City.

Tribunal Members - Part-time

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.

Richard W. Hall
*Surrey,
British Columbia*

Appointed to a part-time term of four years on October 12, 2007, Mr. Hall holds a bachelor of laws degree from the University of Victoria, a master of science in geography and an honours bachelor of arts in geography from the University of Western Ontario. He currently serves as president of Lion Hall Bancorp Limited, providing executive and legal consulting services. He began his legal career in 1984. From 1989 to 1994, he worked for the Province of British Columbia with three different administrative tribunals, providing advice in law and policy. From 1995 to 1997, he was a senior labour relations officer for Vancouver Hospital and Health Sciences Centre, after which he became legal counsel for the Vancouver School Board until 2001. That same year, he became regional director of human resources and compensation for physicians of the Vancouver Coastal Health Authority, a position he held until 2005. Mr. Hall is a member of the Law Society of British Columbia and the Canadian Bar Association, and has served on the boards of directors of two publicly traded companies and one private sector company.

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.

Alan Laing
Fergus, Ontario

Mr. Laing was appointed to a part-time term of four years on September 20, 2007. At the time of his retirement, he was a captain for the Airbus A340 with Air Canada. He started his career as a pilot in 1972 and became a captain in 1985. During this time, he was also director, Central Region for the Canadian Air Line Pilots Association for two years, and later became the Association's president, a position he held for one year. Mr. Laing is a director of the Fergus Scottish Festival and Highland Games, a counsellor and advisor for the Trenton Air Cadet Summer Training Centre, an officer of the 121 Squadron Royal Canadian Air Cadets and a lecturer on technology at Confederation College.

Jean-Marc Lalonde
Rosemère, Quebec

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, Quebec

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 des 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.

Tribunal Members - Part-time

Herbert Lee
*Richmond,
British Columbia*

Appointed to a part-time term of three years on September 20, 2007, Mr. Lee is the managing director of a Vancouver-based travel agency. He is also a licensed private pilot and a certified travel manager. Mr. Lee is a member of the Richmond Chamber of Commerce, the Hong Kong Aviation Club and the Royal Canadian Mounted Police Advisory Committee for Multiculturalism in Richmond and a past member of the Hong Kong Chamber of Commerce. He has studied at Simon Fraser University, the Hong Kong Polytechnic University and the Royal Navy School in the United Kingdom.

Barrie LePitre
Gloucester, Ontario

Appointed to a part-time term of four years on December 3, 2007, Mr. LePitre holds a bachelor of arts degree from Carleton University in Ottawa, and a bachelor of laws degree from Osgoode Hall Law School of York University in Toronto. He began his career in 1977, as counsel for the Commercial and Property Law Section of the regional office of Justice Canada in Toronto, Ontario. In 1983, he began serving as counsel with the Department's legal services offices in Ottawa. Recently retired, Mr. LePitre served as counsel, senior counsel and general counsel to many client departments during his 30-year career. Of special note is his service as general counsel for transport from 1996-2007, during which time he provided a wide range of advisory legal services with respect to the marine component of Transport Canada, particularly concerning the *Canada Marine Act*. Mr. LePitre is a member of the Law Society of Upper Canada and a notary public for the Province of Ontario.

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.

Tribunal Members - Part-time

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.

Elizabeth MacNab
Ottawa, Ontario

Appointed to a part-time term of four years on December 3, 2007, Ms. MacNab holds a bachelor of laws degree from the University of Toronto, a diploma in legislative drafting and a licentiate in laws degree from the University of Ottawa. She was called to the Bar of Ontario in 1967. She began her legal career as counsel for a private law firm and participated in studies with the Law Reform Commission of Ontario. From 1981 to 1986, she worked as a legislative officer with Transport Canada's *Aeronautics Act* Task Force. In 1986, she moved to the Department's Aviation group, where she oversaw the preparation of draft regulations for review by Justice Canada, and provided policy advice on amendments to federal transportation Acts. In 1990, she became counsel for Transport Canada, providing legal advice on matters relating to various modes of transportation and administrative law. Ms. MacNab also represented the Department at international conferences and committees on aviation-related matters.

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.

Suzanne Racine
Kirkland, Quebec

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.

Tribunal Members - Part-time

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.

Dr. John Saba
Brossard, Quebec

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, Quebec, 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.

Arnold Price Vaughan
Calgary, Alberta

Appointed to a part-time term of three years on September 20, 2007, Mr. Vaughan began his career by enrolling in the Canadian Armed Forces Regular Officers Training Plan as an officer cadet in 1966 and was then trained as a military pilot. He served for 18 years in the regular and reserve forces and gained senior officer status. He currently possesses both Canadian and American airline transport pilot licences and a commercial helicopter licence. He retired as captain from Air Canada. He is a member of the Royal Aeronautical Society, the Aviation Security Association of America International and the Council of Aviation Accreditation. Mr. Vaughan holds a bachelor of arts from the University of Waterloo and a master of business administration, with a major in aviation and international business, from Concordia University.

Tribunal Members - Part-time

Dr. James M. Wallace
Ottawa, Ontario

Appointed to a part-time term of four years on April 11, 2008, Dr. Wallace holds a bachelor of medicine and surgery from the University of Edinburgh, Scotland, and a diploma in aviation medicine from the Royal College of Physicians of London. He is also a Fellow of the Aerospace Medical Association. Dr. Wallace started his career with general medical practice in Nova Scotia and the West Indies, and in 1980, he joined Transport Canada Aviation as a regional aviation medical officer for the Ontario region. Prior to his retirement in 2005, Dr. Wallace was senior consultant, policy and planning, and was also the chairman of the Aviation Medical Review Board. Dr. Wallace is also very active in his community. He is a member of the Aerospace Medical Association and the International Academy of Aviation and Space Medicine and a former member of the Canadian Medical Association.

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:

- ♦ Mr. Pierre Beauchamp
- ♦ Mr. E. David Dover
- ♦ Mr. Armand Goguen
- ♦ Mr. Keith Edward Green
- ♦ Mr. Hilery T. Hargrove
- ♦ Mr. John D. Issenman
- ♦ Ms. Sandra Kathleen Lloyd
- ♦ Ms. K.M. Tracy Medve
- ♦ Dr. Michael T. Richard

Also in August 2007, Mr. Robert B. Emigh, Q.C., resigned as a part-time member of the Tribunal.

Staff of the Tribunal

Office of the Tribunal

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Tribunal Rules



SOR/86-594, effective June 1, 1986
and amendment SOR/93-346, June 16, 1993

RULES GOVERNING THE PRACTICE AND PROCEDURE IN CONNECTION WITH MATTERS DEALT WITH BY THE TRANSPORTATION APPEAL TRIBUNAL OF CANADA

Short Title

1. These Rules may be cited as the *Transportation Appeal Tribunal of Canada Rules*.

Interpretation

2. In these Rules,

“Act” means the *Aeronautics Act*, the *Canada Shipping Act, 2001*, the *Marine Transportation Security Act*, the *Railway Safety Act*, or the *Canada Transportation Act* [s. 2 of the *Transportation Appeal Tribunal of Canada Act*]; (*Loi*)

“party” means a party to a proceeding; (*partie*)

“proceeding” means a review under sections 6.71, 6.9, 7, 7.1 or 7.7 or an appeal under sections 7.2 or 8.1 of the *Aeronautics Act*; a review under sections 16.1, 20.4, 231.2, or 232(1) or an appeal under sections 20.5(1) or 232.2 of the *Canada Shipping Act, 2001*; a review under sections 19.4(1), 37 or 39(1) or an appeal under sections 19.6(1) or 40(1) of the *Marine Transportation Security Act*; a review under sections 27.1, 31 or 32 or an appeal under sections 27.5, 31.2 or 32.2 of the *Railway Safety Act*; a review under section 180.1 or an appeal under section 180.6(1) of the *Canada Transportation Act*; (*instance*)

“registrar” means a registrar of the Tribunal, and includes a deputy registrar; (*greffier*)

“registry” means the principal office of the Tribunal in the National Capital Region or such other offices as the Tribunal may establish from time to time. (*greffe*)

Application

3. These Rules apply to all proceedings.

General

4. Where a procedural matter not provided for by the Act or by these Rules arises during the course of any proceeding, the Tribunal may take any action it considers necessary to enable it to settle the matter effectively, completely and fairly.

Service

5. Service of a document, other than a summons referred to in section 14, shall be effected by personal service or by registered mail.

6. Where service of a document is effected by registered mail, the date of service is the date of receipt of the document.

Tribunal Rules

Filing

7. Where a party is required or authorized to file a document with the Tribunal, the document may be filed by depositing it in the registry personally, by mailing it or sending it by courier to the registry or by transmitting it to the registry by telex, facsimile or other electronic means of communication if the registry has the necessary facilities for accepting transmission in such manner.

8. The date of filing of a document with the Tribunal is the date of receipt of the document at the registry, as evidenced on the document by means of the filing stamp of the Tribunal.

Holiday

9. Where a time limit prescribed by or pursuant to the Act or these Rules falls on a Saturday, Sunday or holiday, the time limit is extended to the next following business day.

Applications

10. (1) An application for any relief or order, other than a request for review under sections 6.71, 6.9, 7, 7.1 or 7.7 or an appeal under sections 7.2 or 8.1 of the *Aeronautics Act*; a request for review under sections 16.1, 20.4, 231.2 or 232(1) or an appeal under sections 20.5(1) or 232.2 of the *Canada Shipping Act, 2001*; a request for review under sections 19.4(1), 37 or 39(1) or an appeal under sections 19.6(1) or 40(1) of the *Marine Transportation Security Act*; a request for review under sections 27.1, 31 or 32 or an appeal under sections 27.5, 31.2 or 32.2 of the *Railway Safety Act*; a request for review under section 180.1 or an appeal under section 180.6(1) of the *Canada Transportation 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.

Tribunal Rules

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.

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 Courts Rules*.

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.

Tribunal Rules

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.

(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.

Argument

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 sections 7.2 or 8.1 of the *Aeronautics Act*, sections 20.5(1) or 232.2 of the *Canada Shipping Act, 2001*, sections 19.6(1) or 40(1) of the *Marine Transportation Security Act*, sections 27.5, 31.2 or 32.2 of the *Railway Safety Act*, or section 180.6(1) of the *Canada Transportation 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.

2007-2008 in Review

Activities

The present annual report covers the 12 months between April 1, 2007 and March 31, 2008. In the 12-month reporting period, the Tribunal registered **141** new requests for review and **9** requests for appeal from the transportation community. This represents an increase of **46** new case files registered over fiscal year 2006-2007. Additionally, **39** certificates were issued to the Minister, pursuant to section 7.92 of the *Aeronautics Act*.

In addition to the new cases registered in this reporting period, **108** cases were carried over from the previous reporting period, bringing the total caseload to **258**. This represents an increase of **47** cases over 2006-2007.

The Tribunal heard **29** first level reviews and **8** second level appeals for a total of **40** hearing days. This represents a decrease of **2** hearings over the previous fiscal year. Of the **37** cases that proceeded to a hearing, many cases were postponed and rescheduled at a later date. At the end of 2007-2008, **81** cases were pending further action, **5** were awaiting decisions and **10** had been scheduled for the 2008-2009 fiscal year.

In the 2007-2008 reporting period, **125** cases were concluded without a hearing. It should be noted that of these **125** 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 **125** 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.

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 **91** days and **88** 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 refusal to renew 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 2006-2007, the Tribunal referred **5** cases back to the Minister of Transport for reconsideration, pursuant to sections 6.72 and 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 **2** cases, and upheld the review determination in **3** cases.

In 2007-2008, the Tribunal referred **6** cases back to the Minister. The Minister confirmed its original decision in **1** case, and we are awaiting the outcome in the **5** remaining cases.

Training and Development

The Tribunal for the 12th year supervised a student of the University of Ottawa, Faculty of Law, for the Federal Tribunals Practice Seminar. The student prepared a research paper on notices of cancellation of Canadian aviation documents in the public interest.



The quality of the hearings which are held across the country and the decisions which are rendered are reflective of the high level of training provided to all Tribunal members. A number of training sessions were held over the past year for appointees to the aviation sector, our first marine appointee and our recently appointed Vice-Chairperson.

Annual Seminar

The Transportation Appeal Tribunal of Canada's fourth annual seminar was held in Ottawa, Ontario, on April 25, 26 and 27, 2007 at the Château Laurier Hotel. The seminar was held over the course of three days to exchange ideas, information and to take part in a mock hearing.

The Tribunal Chairperson, Faye Smith, welcomed new members to the Tribunal and presented updates on administrative law as well as an overview of the year in review. She led a discussion group on running a fair hearing, pre-hearing conferences and the principles of natural justice. Presentations were given on immunity of tribunal members, expert evidence and decision writing.

The membership was pleased to welcome the industry panel comprised of Mr. Rich Gage, from the Canadian Business Aircraft Association, Mr. John McKenna, from l'Association québécoise du transport aérien, Captain Rick Rapagna from the Airline Pilots Association, Captain Andy Wilson from the Air Canada Pilots Association, Mr. Adam Hunt from the Canadian Owners and Pilots Association, as well as Transport Canada guests: Mr. Franz Reinhardt, Director, Policy and Regulatory Services, Ms. Beverlie Caminsky, Chief, Advisory and Appeals, and Mr. Michel Béland, Chief, Compliance and Inspection Programs.

Long Service Award Ceremony



In January 2008, the Tribunal held a Long Service Award Ceremony for the following recipients:

- ◆ 25 years of service – Françoise Bodart, Mary Cannon, Jeanne Caron, Monique Godmaire, Suzanne Lagacé
- ◆ 15 years of service – Danielle Lavergne, Thérèse Martine, Carl Poulin

Future Plans

Our anticipated future plans of the past few years have come to fruition. Bill C-7, *An Act to amend the Aeronautics Act and to make consequential amendments to other Acts*, currently at third reading stage, proposes increased monetary penalties for contraventions of designated provisions. As reported last year, the passage of the *International Bridges and Tunnels Act* provides the federal government with the legislative authority to ensure effective oversight of the existing 24 international vehicular bridges and tunnels and 9 international railway bridges and tunnels, as well as any new international bridges or tunnels built in the future. Regulations enabling commencement of cases before the Tribunal under the *Marine Transportation Security Act* and the *Canada Shipping Act, 2001* are now in force and the Tribunal is keeping a watching brief on its expanding mandate.

Resources

Figure 2: Financial Resources
Details of Financial Requirements by Object

(Thousands of dollars)	Budget 2007-2008	Actual Expenses 2007-2008	Estimates 2006-2007
Personnel			
Salaries and Wages	688.0	687.8	682.0
Contributions to employee benefit plans	126.0	111.9	129.0
Total Personnel	814.0	799.7	811.0
Goods and services			
Transportation and communications	163.8	158.4	143.0
Information and printing services	30.7	27.2	25.0
Professional and special services	521.3	483.6	341.6
Rentals	14.5	12.9	25.0
Purchased repairs and upkeep	0.0	0.0	15.0
Utilities, materials and supplies	52.9	41.2	33.0
Total Goods and Services	783.2	723.3	582.6
Totals	1,597.2	1,523.0	1,393.6

Figure 3 : Distribution of Full-time Equivalents

	FTE's*
Governor in Council (GIC)	2
Administrative Services (AS)	5
Clerical and Regulatory (CR)	1
Information Services (IS)	2
Secretarial (SCY)	1
Social Science (SI)	1
Total	12

* FTE's: Full-time equivalent is a measure of human resource consumption.

* Funding for \$199 250 was requested from Transport Canada to hire additional employees and to provide training sessions for newly appointed part-time members.

Statistical Data

Pages 28 to 35 contain data tables, based on the Tribunal's new requests received during 2007-2008 and files carried over from 2006-2007.

The tables are separated into various interests.

The tables are presented under various categories and regions.

- ◆ 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

REFUSAL TO ISSUE

- AME
- medical certificate
- pilot and others

CANCELLATIONS

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

MEDICALS

- ATC
- pilot

FINES

- AME
- AMO
- ATC***
- aircraft owner
- operator security
- operator
- personnel security
- pilot

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

Fiscal Year 2007-2008

Figure 4: Total Cases by Category

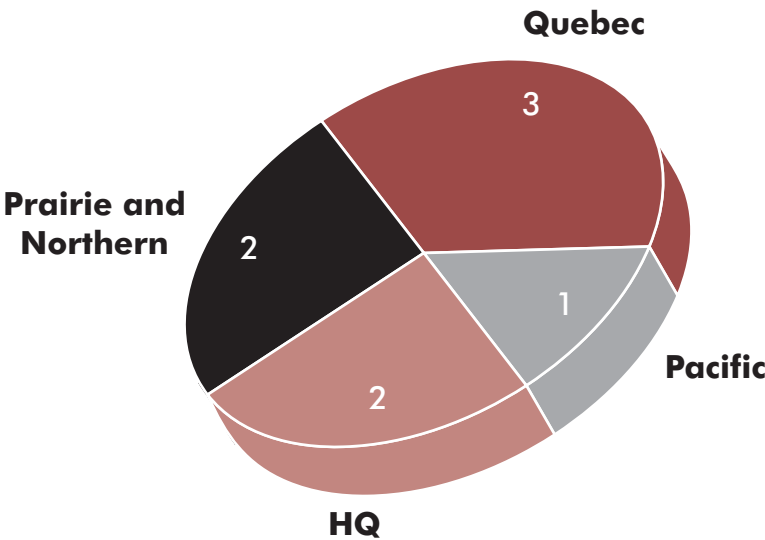
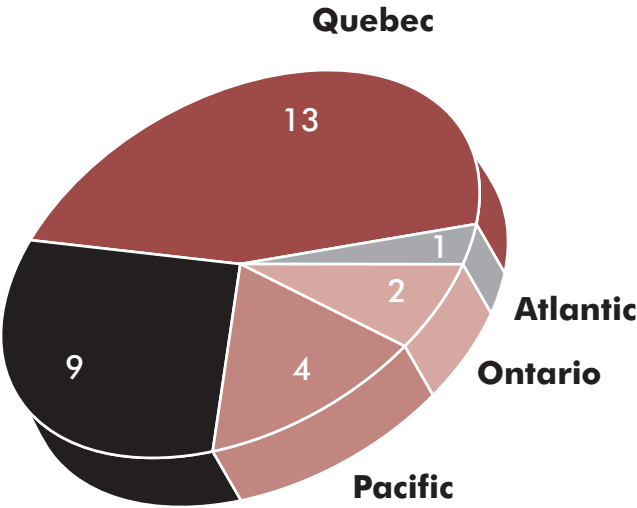
Category	Pacific	Prairie and Northern	Ontario	Quebec	Atlantic	HQ	Totals	%
Medicals	16	12	12	16	2	2	60	23
Suspensions	7	12	10	4	5	1	39	15
Fines	12	52	15	30	11	*7	127	49
Cancellations	2	1	0	5	0	0	8	3
Refusal to issue	6	5	5	3	1	1	21	9
Rail orders	0	0	0	1	1	1	3	1
Totals	43	82	42	59	20	12	258	100
%	17	32	16	23	8	4	100	

* includes one case from the Canadian Transportation Agency.

Statistical Data

Figure 5: Reviews and Appeals
Concluded with a Hearing

Reviews

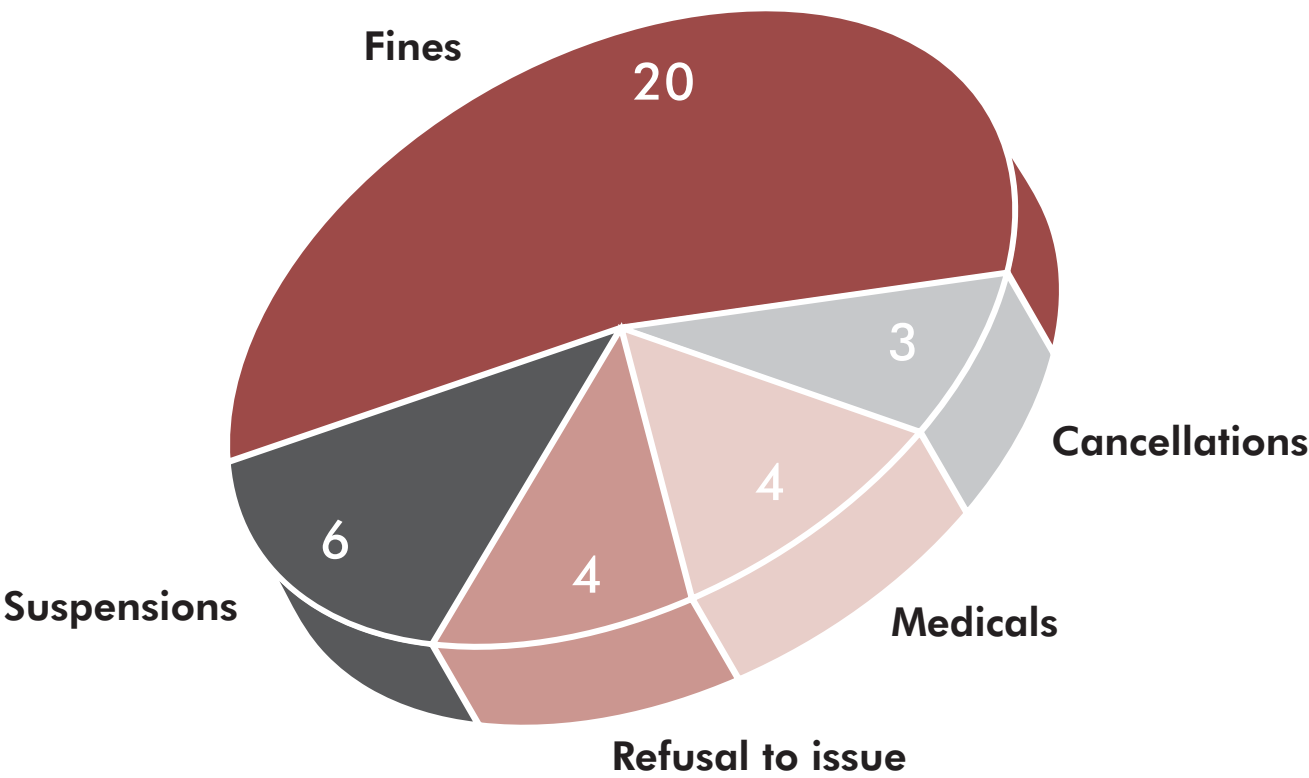


Appeals

Hearing Level	Pacific	Prairie and Northern	Ontario	Quebec	Atlantic	HQ	Totals	%
Reviews	4	9	2	13	1	0	29	78
Appeals	1	2	0	3	0	2	8	22
Total	5	11	2	16	1	2	37	100

Statistical Data

Figure 6: Hearings by Category



Category	Pacific	Prairie and Northern	Ontario	Quebec	Atlantic	HQ	Totals
Medicals	1	2	0	1	0	0	4
Suspensions	2	2	1	0	0	1	6
Fines	1	5	1	11	1	1	20
Cancellations	0	0	0	3	0	0	3
Refusal to issue	1	2	0	1	0	0	4
Totals	5	11	2	16	1	2	37

Statistical Data

Figure 7: Hearing Results by Disposition

Suspensions

Disposition	Pacific	Prairie and Northern	Ontario	Quebec	Atlantic	HQ	Totals
Referred back to the Minister	0	1	1	0	0	0	2
Minister's decision confirmed	1	0	0	0	0	0	1
Appeal dismissed; sanction confirmed	0	1	0	0	0	1	2
Awaiting decision	1	0	0	0	0	0	1
Totals	2	2	1	0	0	1	6

Statistical Data

Figure 7 (continued)

Fines

Disposition	Pacific	Prairie and Northern	Ontario	Quebec	Atlantic	HQ	Totals
Minister's allegation upheld	0	*1.5	1	*3.5	*0.5	0	6.5
Minister's allegation upheld; sanction reduced	0	*0.5	0	*1.5	0	0	2
Minister's allegation dismissed	0	0	0	2	*0.5	0	2.5
Request for review withdrawn at hearing	0	1	0	0	0	0	1
Agreement reached at review hearing	0	0	0	1	0	0	1
Appeal dismissed; sanction confirmed	1	0	0	1	0	1	3
Appeal allowed; sanction cancelled	0	1	0	0	0	0	1
Awaiting decision	0	1	0	2	0	0	3
Totals	1	5	1	11	1	1	20

* Three 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	2	0	0	0	0	3
Awaiting decision	0	0	0	1	0	0	1
Totals	1	2	0	1	0	0	4

Refusal to Issue

Disposition	Pacific	Prairie and Northern	Ontario	Quebec	Atlantic	HQ	Totals
Minister's decision confirmed	1	0	0	0	0	0	1
Referred back to the Minister	0	2	0	1	0	0	3
Totals	1	2	0	1	0	0	4

Cancellations

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

Historical Data

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

Regions	2007-2008	2006-2007	2005-2006	2004-2005	2003-2004
Pacific	43	48	57	35	37
Prairie and Northern	82	50	64	69	95
Ontario	42	46	92	106	122
Quebec	59	44	43	43	54
Atlantic	20	11	11	11	20
HQ	12	12	5	5	4
Totals	258	211	272	269	332

Since its inception in 1986 the Tribunal has registered 6 079 case files.

Figure 9: Total Case Files Since 1986

Summary	Pacific	Prairie and Northern	Ontario	Quebec	Atlantic	HQ	Totals
Total case files	725	1 843	1 578	1 336	463	134	6 079
%	12	30	26	22	8	2	100

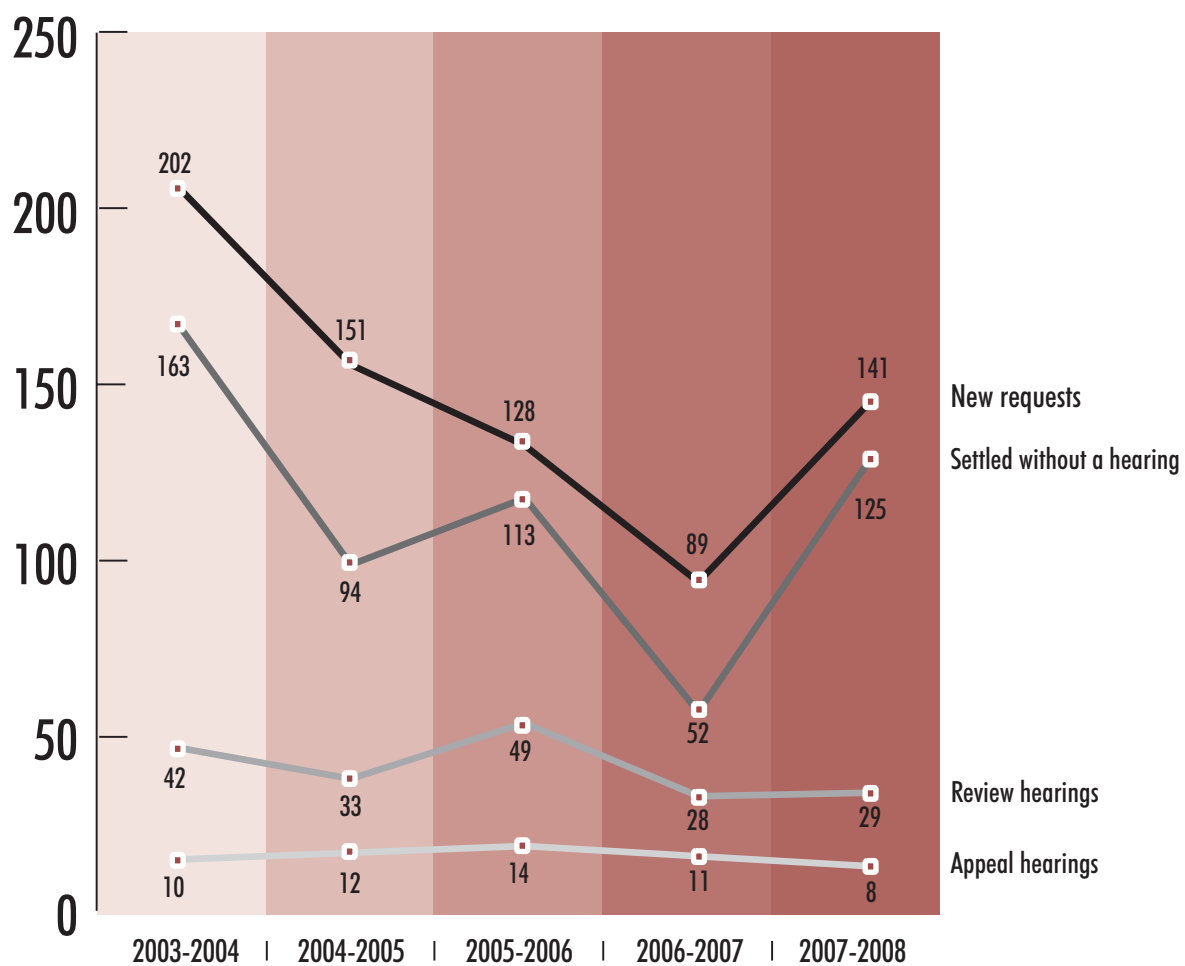
Figure 10: Total Cases Concluded with a Hearing by Region since 1986

Summary	Pacific	Prairie and Northern	Ontario	Quebec	Atlantic	HQ	Totals
Total hearings	172	608	328	368	134	22	1 632
%	10	37	20	23	8	2	100

Of the 1 632 cases concluded with a hearing, 1 309 were reviews (80%) and 323 were appeals (20%).

Historical Data

Figure 11: Caseload for the Past Five Years



2003-2004

2004-2005

2005-2006

2006-2007

2007-2008

New requests

202

151

128

89

141

Settled without a hearing

163

94

113

52

125

Review hearings

42

33

49

28

29

Appeal hearings

10

12

14

11

8

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