



Public Service
Staffing Tribunal

Tribunal de la dotation
de la fonction publique

2013-14

Annual Report of the **Public Service Staffing Tribunal**



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The Honourable Shelly Glover, P.C., M.P.
Minister of Canadian Heritage and Official Languages
Gatineau, Québec
K1A 0M5

Dear Minister Glover:

In accordance with section 110 of the *Public Service Employment Act*, I am pleased to submit the ninth annual report of the Public Service Staffing Tribunal for the period from April 1, 2013 to March 31, 2014, for tabling in Parliament.

Yours respectfully,

Guy Giguère
Chairperson and Chief Executive Officer

Message from the Chairperson

I am pleased to submit the 2013–14 annual report for the Public Service Staffing Tribunal.

Again this year, the Tribunal has continued to improve on the delivery of its mandate. I am especially happy to report that the turn-around time for issuing decisions following a formal hearing has been improved significantly as the Tribunal rendered 88% of its decisions within four months.

The review of the expedited hearing pilot project concluded that the developed model of expedited hearings would simplify and condense the adjudication process and that decisions would be rendered in less than a month of the hearing. The Tribunal has therefore added the expedited hearing process to its business practice. I anticipate that about a third of hearings will be scheduled as expedited hearings.

The Tribunal also successfully launched its new case management system, provided on-line mediation training, and encouraged and pursued video and telephone conferencing.

Overall, the Tribunal has continued to provide for expeditious resolution of complaints as 88% of these are closed within 270 days or less from their receipt.

The *Public Service Labour Relations and Employment Board Act* (PSLREBA), which received Royal Assent on December 12, 2013, establishes the Public Service Labour Relations and Employment Board (PSLREB), which merges the functions of the Public Service Labour Relations Board and the Public Service Staffing Tribunal.

As the new PSLREB will be established on a date to be determined by Order in Council, the two organizations continued to operate independently for the remainder of the 2013–14 year, while undertaking preparations for the successful merger of their functions.



Guy Giguère

Chairperson and Chief Executive Officer

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SECTION I – Overview

The Public Service Staffing Tribunal (the Tribunal) is an independent, quasi-judicial body established under the *Public Service Employment Act* (PSEA) to address complaints related to internal appointments and lay-offs in the federal public service.

The Tribunal is responsible for the impartial and timely consideration and disposition of complaints submitted under the PSEA with respect to internal appointment and lay-off processes.

The Tribunal conducts hearings, settlement conferences and mediation sessions in order to resolve complaints.

In fulfilling its mandate, the Tribunal fosters fair and transparent staffing practices, and contributes to a public service that is based on merit, embodies linguistic duality and human rights, and strives for excellence.

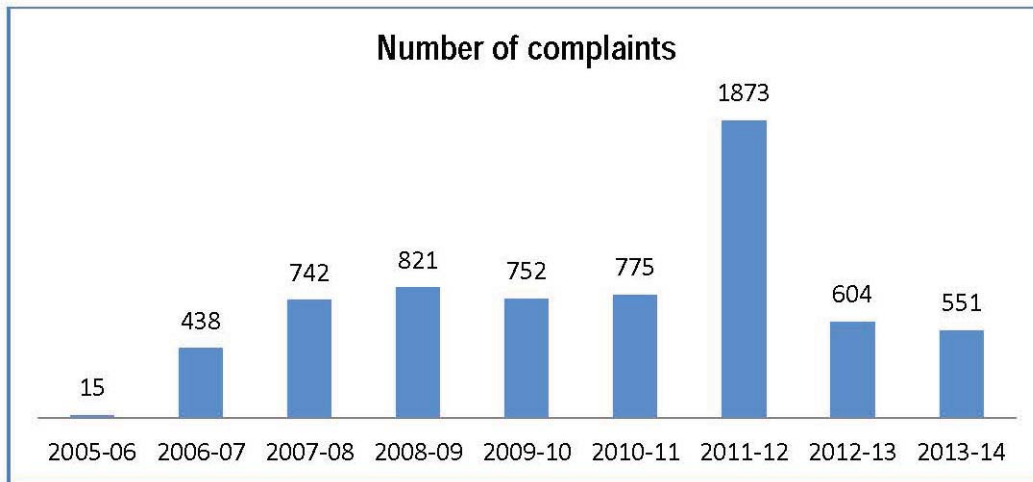
Complaints

The unpredictability of caseload continued to represent a planning challenge for the Tribunal. In 2013–14 the Tribunal’s complaint caseload decreased slightly compared to the previous year, to 551 complaints.

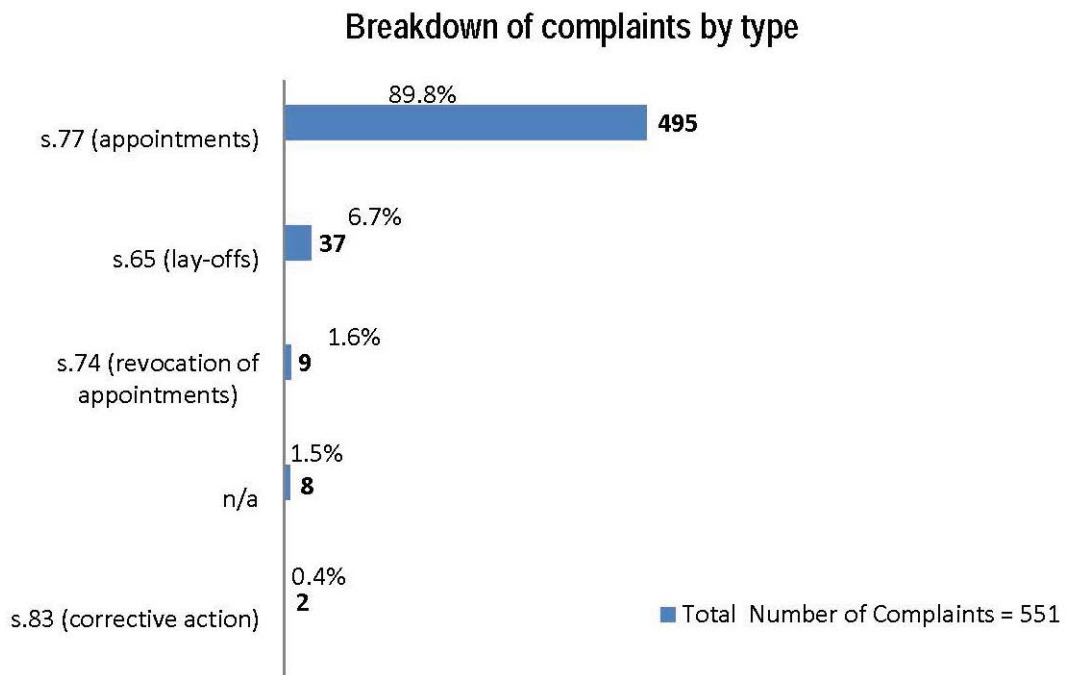
Given the likelihood of receiving an increasing number of complaints as departments implemented cost-saving measures and reduced the size of their workforces, the Tribunal prepared to manage an influx of lay-off complaints. However, the anticipated increase in number of lay-off complaints did not occur by year end.

While several factors contribute to fluctuations in the number of complaints from year to year, the lower number this year may be due to:

- affected employees finding new employment;
- a general decline in staffing activities within the public service;
- vacancy management strategies focused on redeploying displaced employees within departments;
- increased number of placements for those registered in the priority system; and
- increased knowledge and understanding of staffing jurisprudence established over the years.



As in previous years, lay-off complaints represented a small minority (6.7%) of the caseload, while the majority of complaints (89.8%) related to appointment processes, as illustrated in the chart below.



In 2013–14, the Tribunal closed 521 complaint files. Of those, 459 or 88.1% were closed within 270 days or less from the receipt of the complaint.

Mediation

Complaints Referred to Mediation

In 2013–14, 126 complaints were settled during mediation, out of 155 mediations conducted. This represents an overall success rate of 81%, with similar rates for mediations conducted by telephone, by videoconference and in person.

Total referred to mediation (<i>including 72 carried over from previous years</i>)	260
Party withdrew consent to mediation	32
Complaints withdrawn by complainant prior to scheduled mediation	21
Mediation processes underway/carried-over to next fiscal year	52
Mediations conducted	155
Total complaints resolved by mediation	126
Mediation success rate ¹	81%

Telephone and Videoconference Mediation

To improve the Tribunal’s service delivery to clients and create savings and efficiencies, mediation and pre-mediation sessions were increasingly conducted by telephone and videoconference. The proportion of mediations conducted entirely by telephone or videoconference increased from 15% last year to 55% this year.

The mediation participant satisfaction rate, which is based on feedback related to the mediation process and the work of the mediator, was 92%. This high satisfaction rate was reported for mediations done in person, by telephone and by videoconference.

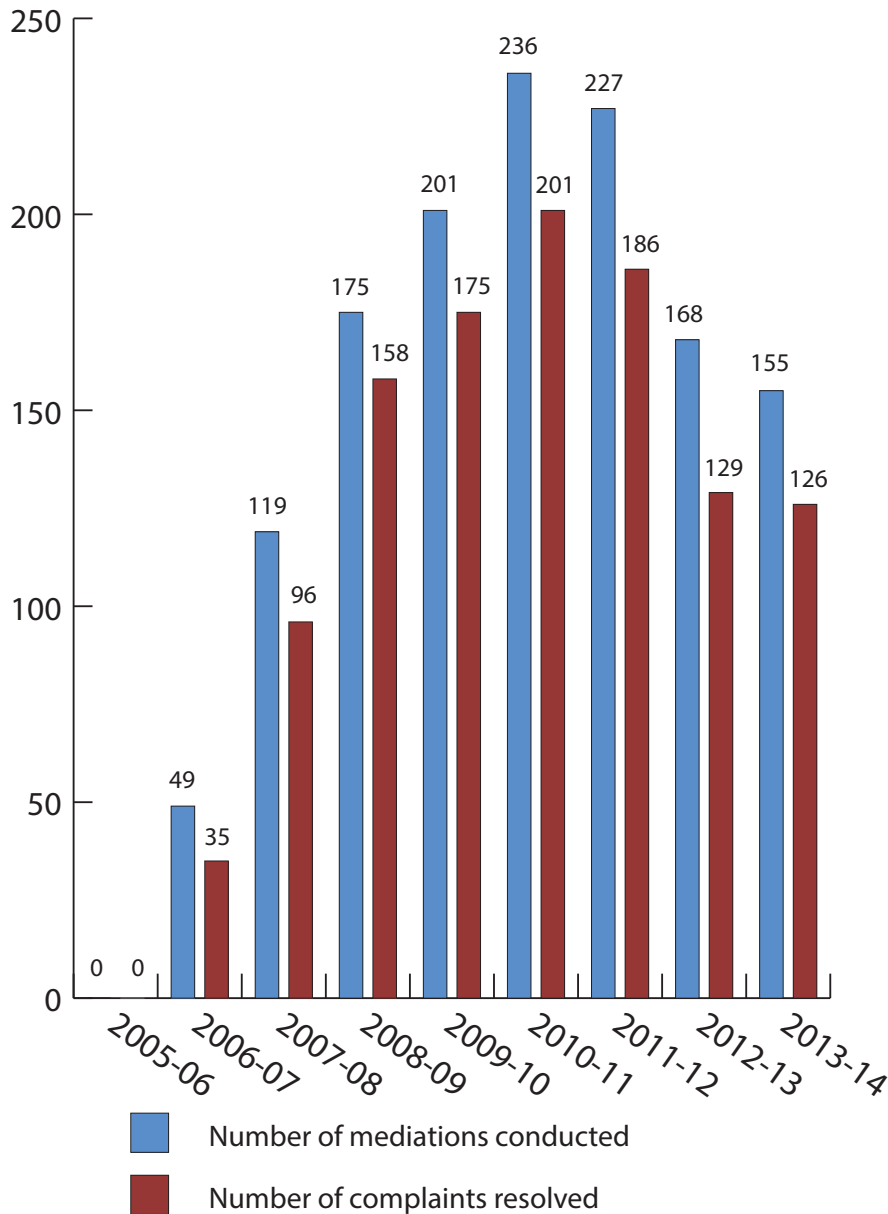
¹ The success rate is comparable for mediations done by telephone, by videoconference and in person. Mediations of complaints regarding internal appointments show a higher success rate (83%) than mediations of lay-off complaints (77% success rate).

Mediations held in person or by telephone or videoconference

Pre-mediation and mediation by telephone (39%) or videoconference (16%)	55%
Pre-mediation (1-day) by telephone and mediation (1-day) in person	21%
Pre-mediation (1-day) and mediation (1-day) in person	24%

Summary of Complaints for Mediation 2005 to 2014

Since 2005, 1,330 mediations have been conducted, with an average success rate of 83.3%.



Settlement Conferences

Since 2010, the Tribunal has conducted settlement conferences. Like mediation, a settlement conference is a confidential process with the objective of coming to a final resolution with a withdrawal of the complaint. Both have a high settlement rate. However, a settlement conference differs in that it is a mandatory process controlled by the Tribunal. It is a rights-based evaluative process chaired by a Tribunal member. It allows the parties to discuss, in caucus, the strengths and weaknesses of their case in order to reach a settlement that is satisfactory to them.

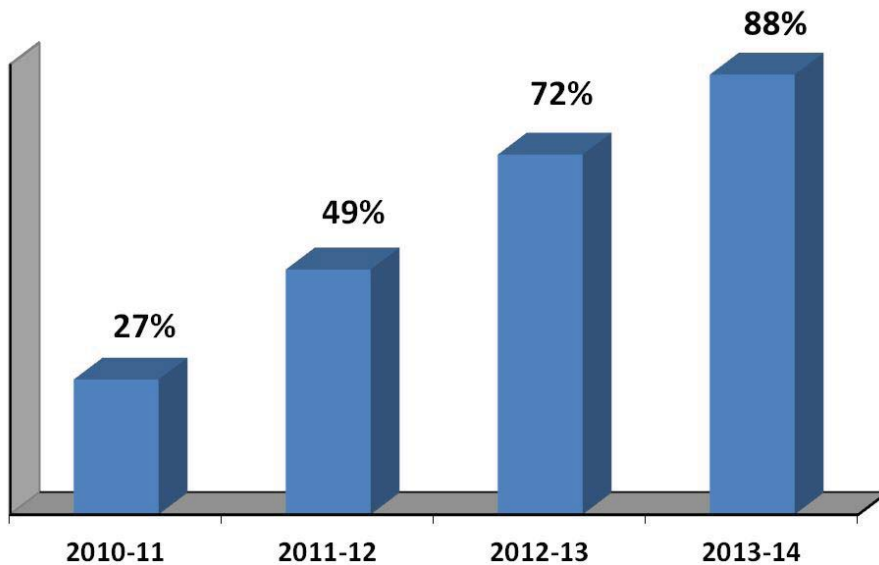
In some instances, the member presiding over the settlement conference may decide following preliminary discussions with the parties to cancel the settlement conference where it appears that the parties have no likelihood of coming to any resolution of the complaint. In some cases, the complaint is withdrawn before the settlement conference takes place.

In 2013–14, the Tribunal scheduled a total of 39 settlement conferences (18 in person and 21 by telephone). Twenty-nine settlement conferences were held, resulting in 25 complaints being withdrawn before proceeding to a hearing.

Decisions

As the Tribunal’s jurisprudence becomes increasingly established, the turn-around time for issuing decisions following a formal hearing continues to improve consistently from year to year, as shown in the chart below. The proportion of decisions issued within four months of the hearing date increased from 72% in 2012–13 to 88% in 2013–14.

Decisions where reasons are issued within four months of hearing



In addition to issuing reasons for decision following a hearing, the Tribunal also deals with numerous motions during and in the lead-up to the hearing. It issues interim and final decisions in the form of letter decisions or letters of direction. The table below sets out the number of motions received and types of interim and final decisions issued.

Requests/motions	706
Letter decisions	656
Reasons for decision (final decision)	33

SECTION II – Summary of Operations

Expedited Hearings

This new process has been fine-tuned and is now a part of the Tribunal's business practice. The process has proven to be an effective way to improve services by expediting hearings.

Case Management System

The Tribunal launched its new case management system in November, fourteen months after work began on the implementation of the project. Following a successful launch, the Tribunal staff worked closely with the system consultants to ensure that the new system is optimized and configured to meet the Tribunal's business requirements. Staff examined closely the new system's functionality to validate and ensure the implementation of a fully developed case management system. During this period the system was further developed and enhanced to simplify complaint processing and provide for efficient and effective case management.

Mediation Training

The Tribunal offers training to help participants (parties, bargaining agents, HR representatives and managers) prepare for effective mediation of staffing complaints. The two-day, in-person mediation training course was delivered two times during the year, once in English and once in French. Participant feedback indicated a 92% satisfaction rate, which represents a small increase over the previous year.

Since 2009–10, this two-day session has been preceded by a three-hour presentation entitled "PSST Process and Decisions – What You Need to Know." This presentation is given by the Tribunal Legal Services and covers the provisions of the Public Service Employment Act that deal with the complaints that can be presented to the Tribunal, the Tribunal's decisions concerning questions of procedure and the broad principles emanating from the jurisprudence, namely, on abuse of authority, personal favoritism and discrimination, as well as an overview of the corrective measures ordered by the Tribunal in substantiated complaints.

Since 2006, the mediation training has been offered in all regions and provinces a total of 61 times.

The Tribunal also delivered shorter training sessions online, as a pilot project in order to make training opportunities more accessible and affordable. The 90-minute online training session was delivered twice in 2013–14, once in French and once in English, thereby reaching participants throughout the country. Participants reported an overall satisfaction rate of 82%.

The mediation team also delivered more than a dozen additional presentations or workshops on dispute resolution to various audiences throughout the year.

Mediation training sessions delivered

Year	Training Sessions
2005-06	0
2006-07	17
2007-08	12
2008-09	6
2009-10	6
2010-11	6
2011-12	6
2012-13	4
2013-14	4

Mediation Challenges, Interests and Options

While still ensuring that mediations remain confidential, the Dispute Resolution Services has put together a summary of the various matters discussed during the mediation sessions of lay-off complaints. These matters include issues, interests and options.

Please note that for mediation sessions of internal appointments complaints, a similar summary was published in the *PSST Annual Report 2009-10*.

Examples of Issues in Mediation

- Fairness in the Selection of Employees for Retention and Lay-Off (SERLO) process
- Transparency in the decisions and in the communications
- Future needs of the organization
- Job continuity
- Properly working out the parting of ways

Examples of Interests (Complainants) in Mediation

- Respect, loyalty, security
- Psychological, emotional and physical health
- Recognition of complainant's experience, knowledge, skills, good work, dedication and contribution to organization
- Better understanding of process
- Having an action plan
- Need for income
- Career change and moving forward

Examples of Interests (Department) in Mediation

- Fairness, consistency and discrimination-free process
- Maintaining the integrity of the SERLO process
- Listening, understanding and providing appropriate assistance
- Recognizing the complainant's performance and contribution
- Well-being of employees and managers
- Clarifying perceptions
- Explaining the context of budget cuts

Examples of Options Proposed during Mediation

Career Support

- Provide available counselling
- Provide career assessment
- Meeting to present all available options to make the best decision in the circumstances
- Take advantage of the knowledge and help from HR
- Help complainant to prepare for future processes: CV preparation, how to be successful in an interview process, etc.
- Offer training to help the complainant meet the qualifications of another position
- Allow daily dedicated time for job research
- Provide job shadowing
- Mentoring targeted to job search
- Work in another section while awaiting alternation or other
- Provide a letter of reference

Work Alternatives

- Provide acting opportunities
- Provide a meaningful work assignment
- Temporary assignment in another position and specialized training to meet the job requirements
- Move to other section
- Move to other location
- Facilitate an alternation or deployment
- Refer to other Departments
- Market complainant to other contacts
- Ensure temporary employment for the duration of a new project
- Commit to grant seasonal or permanent contracts
- Provide a term contract to maintain continued employment
- Implement transfers, including at a lower level

Workplace Improvement

- Ensure a healthy workplace moving forward
- Improve future SERLOS

Withdrawal of Complaint

Parties in mediation (complainants, deputy heads' delegates, human resources and union representatives) are always aware that agreements resulting from mediation must comply with all applicable legislation, regulations, policies and directives.

Annex I – Complaints by Organization

Organization	Total	% of overall
Correctional Service of Canada	70	12.6
Department of National Defence	64	11.5
Department of Citizenship and Immigration	61	11.0
Canada Border Services Agency	48	8.6
Department of Foreign Affairs	44	7.9
Department of Employment and Social Development*	33	5.9
Canadian Grain Commission	27	4.9
Human Resources and Skills Development Canada	26	4.7
Department of Fisheries and Oceans	20	3.6
Department of Health	20	3.6
Department of Transport	17	3.1
Department of Public Works and Government Services	16	2.9
Royal Canadian Mounted Police	16	2.9
Shared Services Canada	14	2.5
Department of the Environment	8	1.4
Department of Indian and Northern Affairs Canada	6	1.1
Department of Industry	6	1.1
Immigration and Refugee Board	6	1.1
Statistics Canada	6	1.1
Canadian Space Agency	5	0.9
Department of Agriculture and Agri-Food	5	0.9
Public Health Agency of Canada	4	0.7
Department of Justice	3	0.5
Department of Natural Resources	3	0.5
Department of Veterans Affairs	2	0.4
Library and Archives of Canada	2	0.4
National Parole Board	2	0.4
Other Employer	2	0.4
Passport Canada**	2	0.4
Public Prosecution Service of Canada	2	0.4
Treasury Board	2	0.4
Military Grievances External Review Committee	1	0.2
National Capital Commission	1	0.2
Office of the Privacy Commissioner of Canada	1	0.2
Parks Canada Agency	1	0.2
Privy Council Office	1	0.2
Staff of the Non-Public Funds, Canadian Forces	1	0.2

* Established on December 12, 2013

** Transferred federal public administration to Department of Citizenship and Immigration and Human Resources and Skills Development Canada on July 2, 2013.

Annex II – Tribunal Decisions

The purpose of this section is to give an overview of the principles enunciated in the Tribunal's jurisprudence, by summarizing a selection of key decisions issued this year. The summaries below do not contain all of the details of the particular case. Only the relevant portions have been reproduced below.

Complete summaries and the full text of the Tribunal's decisions can be found on the Tribunal's website at www.psst-tdfp.gc.ca/article.asp?id=3434.

Lay-offs

Lishman v. Deputy Minister of Environment Canada, 2013 PSST 12

www.psst-tdfp.gc.ca/article.asp?id=5488

The complainant alleged that the respondent had abused its authority in a number of ways when it selected her for lay-off. One of the issues determined by the Tribunal was the matter relating to a unique position. The respondent submitted that the complainant occupied a unique position in the part of the organization where the deputy head determined that lay-offs would occur. It argued that since there were no other employees in similar positions, there was no requirement to conduct a selection of employees for retention or lay-off (SERLO) process and, therefore, the complainant was not selected for lay-off. Consequently, the respondent argued the complainant did not have the right to file a complaint under s. 65 of the *Public Service Employment Act* (PSEA).

The Tribunal determined that it had jurisdiction to consider the complaint. Section 65(1) of the PSEA provides recourse to the Tribunal for employees who have been informed that they will be laid off, when only some employees in the identified part of the organization will be laid off. The Tribunal determined that "some but not all" can be one or more since Parliament cannot have intended that recourse to the Tribunal should be denied because a deputy head's requirements can be met by eliminating only one position and laying off only one employee. The Tribunal determined that the meaning of the word "selected" for lay-off in s. 65(1) is to be given its plain meaning, namely, to have carefully chosen, and, therefore, it does not preclude an employee in a unique position from making a complaint. The Tribunal concluded that s. 65(1) provides recourse for any employee in the part of the organization identified by the deputy head who is informed that they will be laid off, except when the deputy head has completely eliminated the part of the organization that it has identified. The Tribunal also noted that it is of utmost importance that the reasons for a lay-off decision be fully explained to an employee. Fairness and transparency dictate that they be fully informed of who made the decision and the reasons for it. As well, it is good practice to document such a decision.

Raymond v. Chief Statistician of Canada, 2013 PSST 25

www.psst-tdfp.gc.ca/article.asp?id=5539

The complainant alleged that the respondent used inadequate material to select him for lay-off. Employees had to fill out a track record that then had to be validated by their director. The director who had to validate the complainant's track record did not know the complainant; he therefore

asked the Head of the Information Management Division to provide him with the information. The Division Head, not knowing the complainant well, consulted the complainant's supervisor to obtain the information. The complainant later found out that he had failed two qualifications. The supervisor admitted that he had not taken the time to refresh his memory with regard to one of the examples provided by the complainant. For another example the supervisor wrote in his comments that the example was overstated. The supervisor admitted that he had not taken the time to verify whether the complainant had performed the task as indicated in his example. He therefore conceded that he had made a mistake. The Tribunal found that the validation comments were not credible or accurate. The evidence demonstrated that the unreliable and erroneous validation comments were used to assess the complainant. Furthermore, the respondent failed to take into account the fact that the complainant had described typical, regular and ongoing tasks. The Tribunal therefore found that the complainant had demonstrated that the respondent based its decision on inadequate and inaccurate material to select him for lay-off and that this was a serious error that constituted an abuse of authority. The complaint was substantiated and the Tribunal set aside the decision to lay off the complainant.

Hailu v. Deputy Minister of Health Canada, 2013 PSST 27

www.psst-tdfp.gc.ca/article.asp?id=5551

The respondent conducted a SERLO process to determine which employee would be selected for lay-off. The employees were instructed to give two examples of situations showing how they met each of four merit criteria, which a board then assessed. The board found that the complainant's examples were too general and lacked depth, and that the references that were consulted to verify his examples did not provide any significant elaboration. Board members indicated that they would have sought clarification from the complainant if they were conducting a "regular staffing process", but they had been instructed by the respondent not to inquire or clarify any information provided by the employees or referees. The respondent's instructions to the board prevented it from exercising any discretion to ask questions or clarify the information before it. The rigid application of this rule fettered the board's ability to evaluate the complainant with an open mind and resulted in the complainant's merit being assessed on inadequate information. Those were serious errors that constituted an abuse of authority. The complaint was substantiated and the Tribunal ordered that the respondent's decision to lay off the complainant be set aside.

Besner v. Deputy Minister of Human Resources and Skills Development, 2014 PSST 2

<http://www.psst-tdfp.gc.ca/article.asp?id=5723>

The complainant alleged that the respondent abused its authority when it selected her for lay-off in a SERLO process. In her view, the respondent discriminated against her in the SERLO process on the basis of disability. The complainant has several disabilities and had been working from home five days a week in accordance with an accommodation agreement she had reached with the respondent.

The Tribunal found that the complainant established on a *prima facie* basis that the low scores assessed to her references were due in part to the fact that she had to work from home because of her disabilities, which in turn affected her performance. Her disabilities were thus factors in the decision to select her for lay-off. The Tribunal also concluded that the respondent had not provided a reasonable, non-discriminatory explanation for the poor references in those qualifications upon which the assessment board relied. There was no evidence in this case that the respondent in-

tended to discriminate against the complainant; however, evidence of intent to discriminate is not necessary to make a finding of discrimination. For those reasons, the Tribunal concluded that the respondent's decision to lay off the complainant was based at least in part on a prohibited ground of discrimination—disability. This constituted a discriminatory practice within the meaning of s. 7(a) of the *Canadian Human Rights Act* (CHRA), and the Tribunal therefore found that the selection of the complainant for lay-off constituted an abuse of authority.

The Tribunal ordered that the respondent's decision to lay off the complainant be set aside and that the respondent pay the complainant the sum of \$2,000 in compensation pursuant to s. 53(2) (e) of the CHRA.

Assessments

Payne v. Deputy Minister of National Defence, 2013 PSST 15

<http://www.psst-tdfp.gc.ca/article.asp?id=5597>

The respondent eliminated the complainant for failing to provide proof that he met the essential trade qualification for the position. The complainant had been employed by the respondent for over thirty years, during the course of which the respondent had trained him and awarded him his qualification in the trade. The respondent never issued a formal certificate to the complainant; therefore, he did not file any document with his application demonstrating he was qualified in the trade. The Tribunal found that a member of the assessment board had absolute knowledge of the complainant's certification in the trade. The respondent nonetheless denied itself the opportunity to use this information because it had made a procedural decision not to consider the assessment board members' personal knowledge of the candidates. The Tribunal concluded that the respondent applied this decision rigidly and mechanically, ignoring the relevant fact that the complainant met the certification qualification. In so doing, the respondent fettered its discretion and abused its authority. The Tribunal made a finding of abuse of authority, but no corrective action was ordered.

Akhtar v. Deputy Minister of Transport, Infrastructure and Communities, 2013 PSST 19

<http://www.psst-tdfp.gc.ca/article.asp?id=5510>

(Judicial review pending)

The complainant alleged among other things that the assessment board showed preferential treatment of the appointee by using the appointee's references provided to the Transportation and Safety Board (TSB) in an earlier EX-02 process and by not using his Career Assignment Program (CAP) references. The respondent had therefore not obtained new references for the appointee. The respondent explained the reasons for using the prior TSB assessment, such as it was current and for another EX-02 position. The information given by the TSB referees, one of whom was the chairperson of the Transport Canada assessment board, was relevant. It sufficiently addressed the qualifications at the level expected of the subject EX-02 position to allow the assessment board to assess for this EX-02 process. The additional factors of saving time and expense were also reasonable considerations. The Tribunal found that the complainant had not established that the use of the TSB references or the refusal to use his CAP references constituted preferential treatment toward the appointee. The appointee's references were recent and the content addressed the same

qualifications. The complainant's CAP references were four years old, they were not for an EX-02 position and did not adequately address the essential qualifications, and, according to the Chairperson of the assessment board who was a referee for the complainant for both CAP and the EX-02 processes, were no longer an accurate reflection of his view of the complainant. The complaint was dismissed.

Snelgrove v. Deputy Minister of Fisheries and Oceans, 2013 PSST 35

<http://www.psst-tdfp.gc.ca/article.asp?id=5705>

An internal advertised appointment process was initiated to create a pool of qualified candidates to fill a position on an acting basis. The complainant alleged, among other things, that one of the two assessment board members did not conduct an independent assessment of her qualifications. She also asserted that another member of the assessment board asked her an inappropriate question during her interview, namely, whether she would be willing to return to work before the end of her maternity leave if she was chosen for the position.

When an assessment board comprised of more than one member is established, all members must be able to exercise independent judgment when assessing candidates. One of the assessment board members admitted that she did not do this. Rather, she simply echoed the other member's assessment because she felt intimidated by him. The Tribunal determined that the assessment board member felt intimidated by the other member, and that feeling prevented her from exercising independent judgment when assessing candidates' qualifications, including those of the complainant. The Tribunal concluded that this was a serious error and constituted an abuse of authority. The Tribunal made a declaration that the respondent had abused its authority and ordered the respondent not to use its results of the appointment process to make any further appointments.

The Tribunal further held that it was highly inappropriate for one of the assessment board members to ask the complainant, during her interview, whether she would end her maternity leave if she were offered the acting opportunity. Questions concerning a candidate's maternity leave should not be asked at any stage of an assessment of candidates. However, since the Tribunal had already determined that the respondent abused its authority in the application of merit, it was unnecessary for it to make a finding as to whether asking this question would, by itself, be a serious error amounting to an abuse of authority.

Reopening of Appointment Process

Renaud v. Deputy Minister of National Defence, 2013 PSST 26

<http://www.psst-tdfp.gc.ca/article.asp?id=5593>

The Tribunal had to determine whether the respondent could consider the appointee for the EG-07 position since he had not applied for it. The Job Opportunity Advertisement (JOA) set a closing date to apply in the appointment process. As of that date, the appointee had only applied for the EG-06 position; he had not applied for the EG-07 position. The respondent, in fact, secretly reopened the process seven months after it had closed to allow him to become a candidate for the EG-07 position. There was no evidence that this was done for any other candidates in the process.

By reopening the process only for the appointee seven months after it had closed, the respondent committed a serious error in this appointment process that constituted an abuse of authority. The JOA required that the candidates clearly identify for which position(s) they were submitting an application. The appointee only identified the EG-06 position in his application. He confirmed his interview that he was applying for the EG-06 position. He was then assessed for the EG-06 position. The respondent could not, months later, on an unsolicited basis, contact only the appointee and inquire as to his interest in being considered for another position, and then include him as a candidate for the EG-07 position. Doing so amounted to a breach of the PSEA appointment values of fairness and transparency. The Tribunal concluded that by reopening the process only for the appointee after it had closed, the respondent had committed a serious error that constituted an abuse of authority. The complaint was substantiated and the Tribunal ordered the revocation of the appointment.

Procedural Fairness

Johnston v. President of the Canada Border Services Agency, 2014 PSST 1

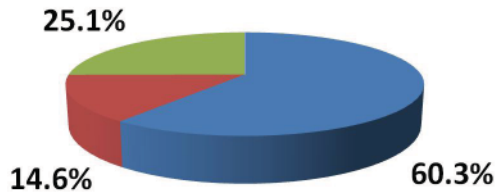
<http://www.psst-tdfp.gc.ca/article.asp?id=5729>

The complainant was an unsuccessful candidate in an internal advertised appointment process. She alleged, among other things, that the respondent abused its authority by failing to conduct a fair review of her assessment. She submitted that the respondent failed to respect the principles of procedural fairness in addressing her concerns. She asserted that she had no meaningful opportunity to participate in the review of her assessment, and the review process was tainted by bias.

Two fundamental components of procedural fairness are the right to be heard, and the right to an impartial decision-maker. For the latter, a reasonable apprehension of bias will invalidate a decision. The only mechanism contemplated in the PSEA for addressing candidates' concerns prior to the completion of an appointment process is informal discussion. There is no requirement in the PSEA or PSC policy to review a completed assessment. As for the allegation of bias the Tribunal found that a reasonably informed bystander would not reasonably perceive bias on the part of the board member. The Tribunal concluded that the complainant had failed to prove that the respondent breached the rules of procedural fairness in the steps that it took to address the complainant's concerns about her assessment. In the Tribunal's view, the steps taken by the respondent were more than appropriate to address the complainant's concerns. The Tribunal was satisfied that the respondent reached its final conclusion only after a comprehensive review, with full consideration of those concerns. The complaint was dismissed.

Annex III – Financial Highlights

Spending by Operational Priorities



- Adjudication Services: \$2.9 million
- Mediation Services: \$713 thousand
- Internal Services: \$1.2 million

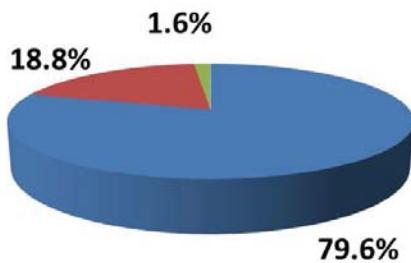
Based on the Tribunal's financial statements, total expenses were \$ 4.9 million in 2013-14.

The majority of the funds, \$2.9 million or 60.3%, was spent on Adjudication Services.

Mediation Services represented \$713 thousand or 14.6% of total expenses.

Internal Services represented \$1.2 million or 25.1% of total expenses.

Spending by Type



- Salaries and benefits: \$3.9 million
- Operating costs: \$915 thousand
- Translation: \$81 thousand

Total expenses for the Tribunal were \$4.9 million in 2013-14, of which \$3.9 million or 79.6% was spent on salaries and employee benefits.

\$915 thousand or 18.8% was spent on other operating costs, such as transportation costs, professional services fees, accommodation costs and costs for hearing and mediation facilities.

The balance of \$81 thousand or 1.6% of the Tribunal costs was for translating its decisions (special purpose allotment).

Annex IV – Members



Guy Giguère, Chairperson and Chief Executive Officer

Born in St-Jérôme, Québec, Mr. Giguère is a lawyer and holds a civil law degree (LL.L) from the Université de Montréal. He worked in the private sector before joining the public service with Employment and Immigration Canada where he provided training and advice on human rights, privacy and access to information. He later worked with the Office of the Privacy Commissioner, the Department of Justice and the Privy Council Office. He began adjudicating and mediating labour grievances in 1998 as a member of the Public Service Staff Relations Board. He later was appointed Deputy Chairperson of the Board in 2001. Guy Giguère was appointed Chairperson of the Public Service Staffing Tribunal in March 2005 and was reappointed in 2008 and 2013. Mr. Giguère is a frequent speaker on mediation and arbitration and trains new members of administrative tribunals on the conduct of hearings. He is Chairperson of the Council of Canadian Administrative Tribunals, a national organization whose main mandate is to promote excellence in the field of administrative justice and provide training for boards, commissions and administrative tribunals in Canada.



John A. Mooney, Vice-Chairperson

John A. Mooney was appointed Vice-Chairperson of the Public Service Staffing Tribunal in September 2009. Mr. Mooney holds a BA and License in Civil Law (LL.L) from the University of Ottawa and has extensive experience in administrative tribunals both as an adjudicator and manager. His prior experience includes working as a legal analyst for the Canadian Union of Public Employees, legal counsel for the Chambre de commerce du Québec, counsel for pension applicants before the Canadian Pension Commission and senior legal officer for the International Civil Service Commission of the United Nations. From 1992 to 1996, he was Chairperson of the Public Service Commission (PSC) Appeal Board. As part of the Privy Council Task Force on Modernizing Human Resources Management from 2001 to 2003, he helped draft the new *Public Service Employment Act* (PSEA). After the PSEA came into force, Mr. Mooney became the PSC Director of Regulations and Legislation where he managed the development of policies and regulations needed to implement the PSEA. In August 2007, he was appointed as a full-time member of the Public Service Labour Relations Board.



Joanne Archibald, Member

Joanne Archibald was appointed to the Public Service Staffing Tribunal as a permanent full-time member in March 2010 and became a part-time member in November 2013. Having obtained a Bachelor of Laws (LL.B) from the University of Calgary, Ms. Archibald is an active member of the Law Society of Alberta. She began her study of mediation in 1993 and is a Registered Practitioner in Dispute Resolution with the Canadian International Institute of Applied Negotiation. Ms. Archibald has served as a mediator both within the public service and with the Provincial Court of Alberta. Well versed in administrative law, Ms. Archibald conducted quasi-judicial hearings pursuant to the *Public Service Employment Act* from 1991 until her appointment to the Tribunal.



Merri Beattie, Member

Merri Beattie is an experienced human resources professional with particular expertise in labour relations and staffing. Ms. Beattie began her public service career with Supply and Services Canada and has held positions in management since 1999. Ms. Beattie served on the Privy Council's Task Force on Modernizing Human Resources Management, which was created in April 2001 to draft a new institutional and legislative framework for human resources management in the public service. Following the adoption of the *Public Service Modernization Act* (PSMA), Ms. Beattie participated in the planning of PSMA implementation across government departments and agencies. In January 2004, Ms. Beattie was named Director of Human Resources Modernization with Public Works and Government Services Canada. In this capacity, she led the design and implementation of the department's human resources policy frameworks and systems, including its response to the new Act. Ms. Beattie was appointed as a permanent full-time member of the Public Service Staffing Tribunal in November 2005.



Lyette Babin-MacKay, Member

Lyette Babin-MacKay was appointed as a permanent full-time member of the Public Service Staffing Tribunal in July 2009. Ms. Babin-MacKay has over 26 years of experience in human resources, labour relations and staffing. Having joined the federal public service of Canada in 1983, she served with Employment and Immigration Canada, Agriculture Canada and National Defence and was appointed to the Professional Institute of the Public Service of Canada in 1996. At the Institute, in addition to providing representation to members regarding grievances, complaints, staffing appeals and adjudication, she was an active member of several National Joint Council Committees and of the Public Service Commission Advisory Council. In 2004 and 2005, she was a member of working groups established by the Deputy Ministers' Sub-Committees on Staffing and Staffing Recourse and on Labour Relations and Dispute Resolution in order to assist departments and agencies in the implementation of the *Public Service Employment Act* and the *Public Service Labour Relations Act*. In 2007, she returned to the federal public service as Senior Policy Analyst with the Treasury Board Secretariat of Canada. Ms. Babin-MacKay holds an Honours BA in History from the University of Ottawa.



Nathalie Daigle, Member

Nathalie Daigle is from Edmundston, New Brunswick. She was appointed as a permanent full-time member of the Public Service Staffing Tribunal in December 2012. Ms. Daigle began her career as legal counsel for the Information Commissioner of Canada in 1996 and later worked as legal counsel for the Privacy Commissioner of Canada, the Department of Justice, Correctional Service Canada and the Courts Administration Service. Ms. Daigle has developed, over the years, an expertise in administrative law. She obtained her LL.B. from the University of Ottawa in 1994 and was called to the Bar in 1996, after completing her articling at the Federal Court of Appeal. She is a member of the Law Society of Upper Canada.



Ken Gibson, Temporary Member

Ken Gibson was appointed as a temporary member of the Public Service Staffing Tribunal in November 2005 and served until June 2013. Mr. Gibson began his career as a researcher with the Science Council of Canada and later worked at the Professional Institute of the Public Service of Canada as both chief research officer and negotiator. From 1985 to 2000, he held a number of senior human resources management positions at the National Research Council, including Director of Employee Relations. Mr. Gibson has spent several years working as a human resources consultant with expertise in HR strategy, policy and program development, project management, labour relations and change management. Mr. Gibson holds an Honours BA in Commerce with specialization in economics and industrial relations.



Maurice Gohier, Temporary member

Mr. Gohier was appointed as a temporary member of the Public Service Staffing Tribunal on May 31, 2012 and he retired from the Tribunal in May 2013. He previously had been a permanent full-time member since February 2010. He began his career in the federal public service as a Staff Relations Officer with Veterans Affairs Canada in 1984. From there, Mr. Gohier joined Fisheries and Oceans Canada as its Chief, Staff Relations and Administration until 1990 when he moved to Training and Development Canada as a Labour Relations Instructor. In 1996, following assignments at the RCMP External Review Committee and the Treasury Board Grievance Adjudications Section, Mr. Gohier joined the Public Service Commission (PSC) Recourse Branch where he first worked as an Investigator and later Chairperson of PSC Appeal Board. Mr. Gohier also worked in the PSC Investigation Branch where he acquired management experience as Assistant Director of Operations and Director of the Jurisdiction and Case Management Directorate. During the transition years from the former to the new *Public Service Employment Act*, Mr. Gohier worked as Recourse Manager and Coach and was responsible for the training of newly hired PSC Investigators. Mr. Gohier holds a Bachelor's degree both in Business Administration and Education from the University of Ottawa.



Eugene Williams, Temporary Member

Eugene Williams was appointed as a part-time member of the Public Service Staffing Tribunal in 2013. Following his 1976 call to the bar, Mr. Williams joined the Bureau of Competition Policy and remained there for four years. In 1980 he became a prosecutor with the federal Department of Justice in Ottawa and had carriage of tax, competition, drugs and regulatory prosecutions until 1990. Between 1990 and 1998 he participated in section 696 (formerly s. 690) Criminal Code reviews; he was involved in the development of the Criminal Conviction Review Group and became its first coordinator. He was appointed Queen's Counsel in 1993. In 1998, he rejoined the Federal Prosecution Service (FPS) as the Director of the FPS Ottawa-Gatineau office. In January 2006 Eugene Williams, Q.C. was appointed the IMET coordinator in the Office of the Director of Public Prosecutions. (On December 12, 2006, the Office of the Director of Public Prosecutions was created by the *Federal Accountability Act* and assumed responsibility for the activities of the Federal Prosecution Service of the Department of Justice.) He remained in that position until he retired from the Public Service in October 2010.



Archie Zariski, Temporary Member

Archie Zariski was appointed a temporary part-time member of the Tribunal in October 2012. Mr. Zariski practiced law, including labour relations matters, in Edmonton for 15 years following his admission to the Alberta Bar. In 1988 he retired from practice to complete a Masters in Law degree from Osgoode Hall Law School where he presented a thesis on law and economics in dispute resolution. Archie then took up appointment as a member of the Faculty of Law of Murdoch University in Perth, Australia. At Murdoch he designed and taught courses in dispute resolution, negotiation, and mediation as well as becoming trained and nationally accredited as a mediator. Since returning to Canada he has joined Athabasca University as an Associate Professor of Legal Studies with research interests in mediation and judicial dispute resolution. Archie continues to lead mediator training courses in Australia and is a member of the Institute of Arbitrators and Mediators Australia, the ADR Institute of Canada and the ADR Institute of Alberta.

How to Contact the Tribunal

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