

Labour & Industrial Relations

Economic Growth, Tourism and Culture

ANNUAL REPORT - 2019

Key Indicators

The labour force totalled 85,500 in 2019: an increase of 1.9% over 2018. Employment reached an all-time high of 78,000 (an increase of 2.6% over 2018). During this period there was a 0.6% decrease in the unemployment rate (down to 8.8%) lowest rate since 1976. However, the province unemployment rate remains high with the average unemployment rate in Canada at 5.7%. The youth(ages 15 – 24) unemployment rate dropped by 2.1% to reach an all time low – employment for this age group increased by 7.5%.

In 2019, the number of males in the workforce increased by 2.1% and the number of females in the workforce increased by 3.2%. There were more youth aged 15 to 24 looking for work in 2019 than in 2018, as the labour force for that age group increased by 4.9% or 600 persons. Employment also increased by 800 or 7.5%, resulting in a decline in the unemployment rate from 13% in 2018 to 10.9% in 2019. The unemployment rate for females aged 15 to 24 was 8.3% in 2019 down from 10.2% in 2018, while the unemployment rate for males in this age group dropped from 15.6% in 2018 to 14.3% in 2019. (Information taken from the Labour Market Bulletin - Prince Edward Island, January, 2020)

A total of 19,980 persons were unionized as of December, 2019. This includes only employees who fall under Provincial labour codes. (Information provided by Unions to Labour and Industrial Relations Division).

Labour Canada quotes major collective bargaining settlements for all industries in Prince Edward Island in 2018/2019 provided base rate wage adjustments averaging 2.0% annually.

According to the Labour Force Survey, PEI's average hourly wage rate was \$22.74 in 2019. This is an increase of \$0.48 or 2.2% increase over 2018. The average hourly wage rate for Canada was \$27.83 in 2019, an increase of 3.4% over 2018. Since 2009, PEI's average hourly wage has increased by 28.3%, while the average rate for Canada has increased by 26.6% over the same period

The inflation rate from April, 2019 to March, 2020 was 1.2 %. (Stats Canada)

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Labour Conciliation Services

The Labour and Industrial Relations Division provides conciliation services to parties to collective bargaining when necessary under the *Labour Act*. The Director of Labour and Industrial Relations acts as the Chief Conciliation Officer and is accountable for the assignment and supervision of conciliators. Two staff are trained in providing conciliation services.

During the reporting period, the Minister a Conciliation Officer was appointed for three matters:

- Education Negotiating Agency (School Bus Drivers & Mechanics, Schools & School Board Clerical, Schools Maintenance Workers) / Canadian Union of Public Employees, Local 1145, 1770 and 1775 – arbitration (now settled)
- Community Inclusions Inc / Prince Edward Island Union of Public Sectors Employees (settled)
- Island EMS / Canadian Union of Public Employees, Local 3324 - pending

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Labour Relations Board

Nancy Birt, QC, Chair
John O’Keefe, QC, Vice Chair
Shawn Shea, Chief Executive Officer
Hazel Walsh, Secretary

Employer Representatives

Fraser MacDougall
Judy Hughes
Dan Hughes
Linda Gaudet

Employee Representatives

Michael Lund
Karen Tsistinas
Blair James
Craig Walsh

Shawn Shea is the Chief Executive Officer of the Board and a full time staff member of the Division.

The Labour Relations Board is located in the Sherwood Business Centre, 161 St Peters Road. It provides a quasi judicial process to address applications made by either management or labour. The Board provides a timely resolution for matters and strives for balance and fairness in its decision making.

The Board received 19 applications in addition to 1 which were carried over from previous years for a total of 20 applications; 11 of which have been granted, 5 of which were withdrawn, 2 have been stayed and 2 are pending.

The Board held

- 4 full party hearing dates,
- 8 panel only hearings,
- 1 certification vote, and
- 2 Board meetings.

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Employment Standards Branch

Robert Yeo is the Employment Standards Officer for the Branch. His role is a blend of public education, regulatory inspection and enforcement. The Branch provides factual information to the public through telephone contact, office interviews, information seminars, routine inspections and distribution of Departmental literature.

Public Education

During the reporting period of April 1, 2019 to March 31, 2020, the Branch

- printed and distributed over 9000 pieces of information and legislation to Regional Services Centres, all Access PEI centres, on the website peiemploymentstandards.ca and at our office in the Sherwood Business Centre, 161 St Peters Road
- conducted 34 information sessions involving approximately 500 employers/employees
- attended 6 job fairs across the Island
- set up information booths at 5 locations across the Island, and
- visited over 600 individual employers.

Investigation

During the reporting period, the Division

- handled approximately 8000 inquiries
- conducted 143 office interviews
- investigated 109 formal complaints
 - 51 resulted in the collection of \$53,890.61 for employees

Enforcement

During the reporting period, the Division

- issued 3 formal Orders to employers for non-payment of monies owing to former / current employees totalling \$2,680.58
- filed 1 judgment with the Supreme Court in the amount of \$528.53 on behalf of 1 employee
- referred 1 employee to the Wage Earner Protection Program (WEPP) in the amount of \$7,083.02

Reciprocal Enforcement Agreements

- \$1,612.14 was collected by Nova Scotia on behalf of 1 employee under our reciprocal enforcement agreement with that province

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Employment Standards Board

Wayne Vessey, Chair
Blake Jelley, Vice-Chair
Hazel Walsh, Secretary

Employer Representatives

Jordan Fraser
Michael Podger
Elizabeth Noonan

Employee Representatives

Dianne Arsenault
Angela MacDonald
Teresa Hennebery

The primary role of the Employment Standards Board is to hear appeal presentations from employers or employees regarding alleged violations of the *Employment Standards Act* (the *Act*). In accordance with the *Act*, the Board, annually makes a recommendation to the Lieutenant Governor in Council on changes to the Minimum Wage Order.

During the reporting period, the Board held

- two panel hearings to deal with employee claims
- four full Board meetings (yearly meeting, orientation/refresher meeting, discussion meeting re: Board business and minimum wage recommendation meeting)
- two consultation sessions to receive input from both employers and employees on recommendations regarding the Minimum Wage Order

The Board recommended an increase of \$.60 to the minimum wage bringing it up to \$12.85 per hour effective the 1st of April, 2020. This increase brings Prince Edward Island's minimum wage to the highest in Atlantic Canada (6th highest in the country). For the first time, the Board published their annual Minimum Wage Review Report.

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Office of the Worker Advisor

Maureen Peters, Worker Advisor
Sean P. Curley, Acting Worker Advisor
Sue Hancock, Intake Officer

About the Office of the Worker Advisor

Located in the Sherwood Business Centre, 161 St Peters Road, the Office of the Worker Advisor provides independent information, advice and assistance (free of charge) to workers, and/or their dependants, on matters involving Workers Compensation. This includes issues arising pursuant to the *Workers Compensation Act* and Regulations and Board policies and procedures.

This position is created and funded through the application of Section 85 of the *Workers Compensation Act* for Prince Edward Island. It provides for the service of a Worker Advisor to assist injured workers in respect of claims for compensation. Furthermore, Section 85(2) of the *Act*, the Workers Compensation Board (the Board) shall make annual grants in such amounts appropriate to cover the costs of providing services under this section of the *Act*. For the *calendar* year 2020, the recorded funding disbursement by the Board for the operation of the Worker Advisor Program was \$183,500.00

The Worker Advisor may assist and/or represent the worker and/or their dependants before the Board at the Customer Service level and the Internal Reconsideration level, as well as before the Workers Compensation Appeal Tribunal (WCAT) and the PEI Court of Appeal.

Case Activity Overview

The Office of the Worker Advisor noted an increase in the number of Notices of Appeal filed:

New Files Opened	45
Internal Reconsideration (1 st appeal level) submissions	33
WCAT: (2 nd appeal level) Notices of Appeal Filed	25
Hearings Attended	9

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Office of the Employer Advisor

Erinn G. Moore, Employer Advisor

Shelley Blaquiere, Program Assistant (April 2019 – July 2019)

Jana Shaw, Acting Program Assistant (January 2020 – March 2020)

This Annual Report highlights the accomplishments of the Office of the Employer Advisor for the period of April 1, 2019 to March 31, 2020, inclusive.

About the Office of the Employer Advisor

The legislative authority for the Office of the Employer Advisor is provided at Section 85(1)(b) of the *Workers Compensation Act*. The Office became operational on February 16, 2004. The mandate of the Office is to assist PEI employers and employer associations with the statutory interpretation and application of both the *Workers Compensation Act* and the *Occupational Health and Safety Act*, as well as policies, procedures and practices of the Workers Compensation Board of PEI, which are derived from those primary authorities.

The Employer Advisor provides independent advice and assistance in the areas of claims management, classifications and assessments, workplace health and safety, and appeals. Services available from the Office of the Employer Advisor include education and training, assistance and representation during the appeal process, research and analysis, along with information sharing. Operational funding is provided to the Department of Economic Growth, Tourism & Culture by the Workers Compensation Board of PEI through employer assessments levied by the Board. There are no fees charged for our services and the Office operates independently from the Workers Compensation Board.

WCB Related Activity

The Office of the Employer Advisor represented a number of Island employers in the preparation and presentation of their appeals, or responses to Worker appeals, to both the Internal Reconsideration Officer and the Workers Compensation Appeal Tribunal. During the fiscal year thirty-seven new files were opened and dealt with diverse matters such as: claim procedure and acceptance, claim costs, new evidence issues, return-to-work and accommodation, re-employment obligations, appeal procedures, cost relief, pre-existing conditions, rate questions and experience rating.

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Additionally, numerous telephone and e-mail inquiries from individual employers and employer associations were addressed, relating to various aspects of both the *Workers Compensation Act* and the *Occupational Health and Safety Act* and attendant *OHS Regulations*, as well as queries regarding Board policies, procedures and practices.

The Employer Advisor submitted feedback on some WCB Draft Policies that were open for public consultation, as well as proposed legislative changes, including the new Occupational Health and Safety law governing workplace bullying, introduced in July 2020.

The Employer Advisor participated in regular Appeal Working Group (AWG) meetings with the Workers Compensation Board (Service Quality Coordinator and Internal Reconsideration Officer), along with the Worker Advisor and the WCAT Coordinator.

Professional Development

The Office of the Employer Advisor participated in teleconference calls with the other five members of the Canadian Association of Employer Advisors/Advocates throughout the year. These teleconferences are typically held on an alternating month or quarterly basis, and provide an excellent opportunity for information sharing for Employer Advisors/Advocates regarding their programs, and developments in workers compensation in their respective jurisdictions.

The Employer Advisor attended training sessions offered through the Public Service Commission. These sessions included: creating a respectful workplace, and diversity in the workplace.

Communications and Client Relations

The Employer Advisor attended numerous events in 2019-20, including: the SkillsPEI conferences on April 2nd, 4th, and 9th, 2019, in Charlottetown, Summerside, and Montague, and the TIAPEI Job Fair held April 13th in Stanley Bridge. We also had a booth at the WCB Occupational Health & Safety Conference held at the Delta Charlottetown on April 25th, 2019.

The Employer Advisor Office also attended and had an information booth at the Construction Association's Annual "Expo" Trade Show on February 28th, 2020, held at the Rodd Charlottetown. The Employer Advisor Office also had a booth at the TIAPEI Job Fair on March 7th, 2020, held at the Delta Charlottetown.

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During the fiscal year twelve issues of *The Employer Advisor* electronic newsletter were produced and circulated via e-mail to employers and their management staff, employer associations, public sector managers, and other interested parties. The Office continues to offer copies of our newsletter on its section of the website. The Office also sent out letters to select employers in higher paying rate groups to provide information about the Office's services.

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Workers Compensation Appeals Tribunal (WCAT)

Chair

P. Alanna Taylor

Vice Chairs

Robertson Burnett

David Hooley

Gordon MacFarlane

Jonah Clements

Susan Robinson

Ron MacLeod

Maureen Gregory

Emily MacDonald

Stephen MacKnight

Employer Representatives

Don Cudmore

Robert Gallant

Diana Lariviere* Resigned December 17, 2019

Eugene (Stu) Lavers

Marion Miller

Robert (Bob)Smith

Scott Stewart

Donald Turner

Fairley Yeo

Worker Representatives

Leo Cheverie

Shelly Higgins

Gordon Huestis

Marlene Hunt

Michelle Lafford

Cynthia McCardle

Elizabeth (Libba) Mobbs

Lalana Paul

Gary Paynter * Resigned June 16, 2019

Coordinator

Michele Ling

Mandate

WCAT's mandate is to review final decisions of the Workers Compensation Board and to ensure compliance with the *Act*, regulations and policy. Its mission is to provide a timely, fair and independent appeal process consistent with the legislation and the rules of natural justice and to render decisions which are a fair reflection of the case.

WCAT's operations are governed by the *Workers Compensation Act* (the "*Act*"). The *Act* sets out the structure, jurisdiction, and responsibilities for WCAT. WCAT's guiding principles include:

- an accessible appeal system for workers and employers
- easy access to appeal process information
- superior quality service for all stakeholders
- independent and impartial decision making, and
- timely and efficient appeal processing and decision making

Caseload Activity Overview

24 Appeals Filed:

The number of appeals filed in 2019 decreased from the previous year. Of the 24 appeals filed, 23 were new worker appeals and 1 was a new employer appeals.

6 Appeals Withdrawn:

During the year there were 6 files withdrawn by the appellant without hearing.

19 Hearings:

There were 19 hearings held in 2019 (compared to 48 in 2018).

16 Decisions:

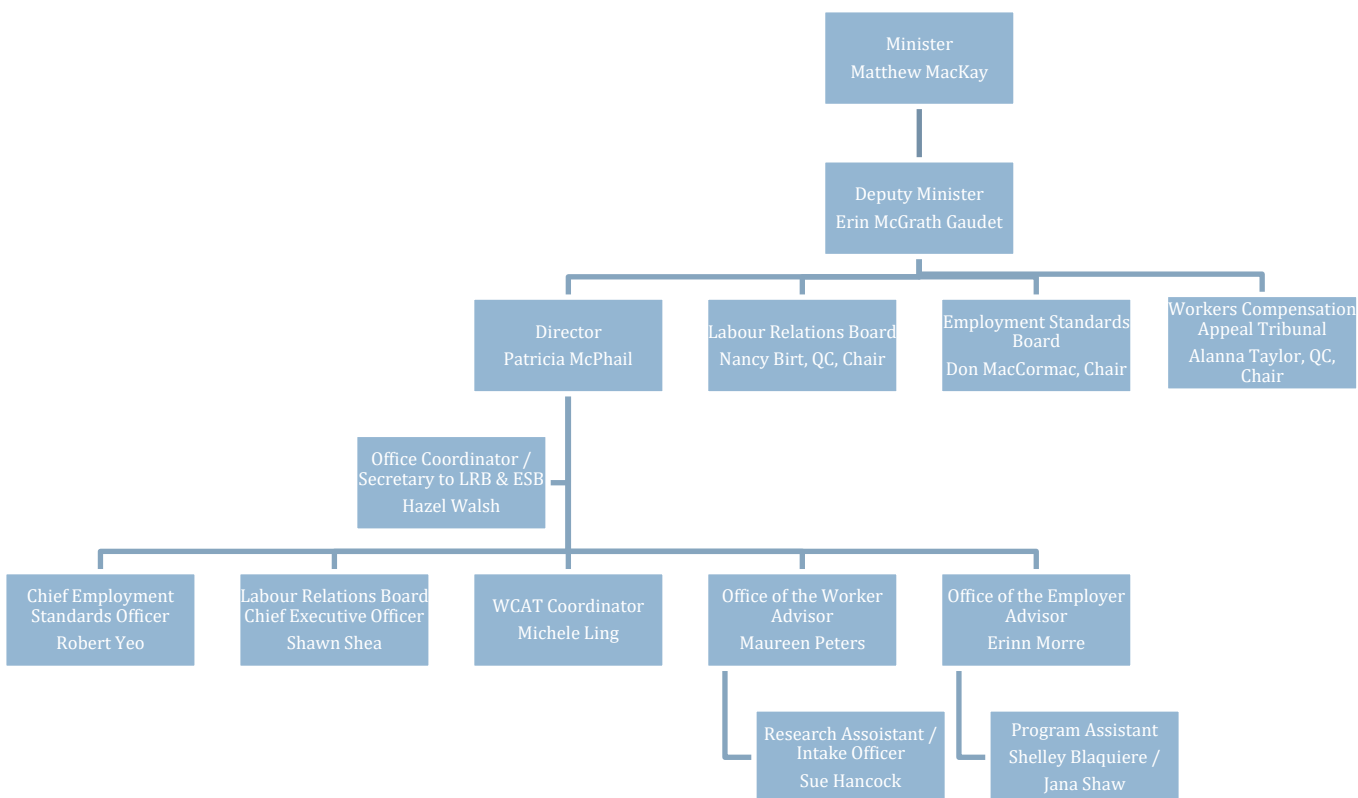
- 11 appeals were dismissed
- 4 were allowed
- 1 returned to WCB

0 Appeals to Court of Appeal:

There were no leave applications filed with the Court of Appeal in 2019, compared to 7 filed in 2018.

Organizational Structure

The Division is a relatively flat structure with three main areas of focus: employment standards, labour relations and workers compensation appeals. The Boards and Tribunal are independent of the Director. However, the Director is responsible for the administrative infrastructure for the Boards to ensure they have access to the tools and resources needed to conduct their work.



Contact Information

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