



Government of
Saskatchewan

Annual Report
2000–2001

Saskatchewan
Labour Relations Board

for the fiscal year ending March 31, 2001

Published by Authority of
The Honourable Kim Trew
Minister of Labour

Letters of Transmittal

The Honourable Dr. Lynda M. Haverstock
Lieutenant Governor
Province of Saskatchewan

May it Please Your Honour:

I respectfully submit the Annual Report of the
Saskatchewan Labour Relations Board for
the fiscal year ending March 31, 2001.

Hon. Kim Trew
Minister of Labour

Hon. Kim Trew
Minister of Labour

Dear Sir:

It is my pleasure to provide you with the
Annual Report of the Saskatchewan Labour
Relations Board. It covers the period commencing
April 1, 2000 and ending March 31, 2001.

Gwen Gray
Chairperson
Labour Relations Board

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I. Labour Relations Board

The Labour Relations Board came into existence in 1944 with passage of *The Trade Union Act*, S.S. 1944 (2nd Sess.) c. 69. Although the Act was amended in 2000, the basic concept of the Board has not changed. The Board is an independent, quasi-judicial tribunal charged with the responsibility of adjudicating disputes that arise under *The Trade Union Act*. It does this principally through public hearings and written decisions.

The Board's decisions are final and binding upon the parties. There is no appeal, and review by the courts is strictly limited.

The Act currently provides for a board comprised of a chairperson and two vice-chairpersons and an unspecified number of members. All members of the Board, including the chairperson and vice-chairpersons, are appointed by the Lieutenant Governor in Council. The chairperson and vice-chairpersons are full-time members of the board. The remaining members are appointed and paid on a per diem basis when their services are required.

The board is a representational board. This means that all members of the board, with the exception of the chairperson and vice-chairpersons, are representatives of employees or employers. The chairperson and vice-chairpersons are neutral and are lawyers.

The Board reports to the Minister of Labour for the Province of Saskatchewan. The Minister is obligated by *The Trade Union Act* to provide the Board with the requisite staff and facilities. The Board operates independently from the government, its departments and agencies.

The Board's offices and staff are located at 1600 - 1920 Broad Street, Regina. The Board also maintains a hearing room in Saskatoon. The staff of the Board is the Board Registrar/Legal Counsel, Investigating Officer, Executive Assistant to the Chairperson and three clerical positions. An Organizational Chart of the Labour Relations Board is contained in Table 1.

The composition of the Board for 2000-2001 was:

Gwen Gray - Chairperson

Gwen Gray was appointed Vice-Chairperson of the Board in August of 1995 and was appointed Chairperson in July, 1997. Ms. Gray obtained her undergraduate degrees in sociology and law from the University of Saskatchewan and her graduate degree in law from Cornell University, Ithaca, New York. Ms. Gray practised labour law in Regina from 1978 to 1988 and in Edmonton from 1992 to 1994. She returned to Regina in 1994 to work as Legal Analyst in the Department of Labour.

James Seibel - Vice-Chairperson

James Seibel was appointed Vice-Chairperson and Executive Officer of the Board in November, 1997. Mr. Seibel obtained his Bachelor of Science degree from the University of Regina and his law degree from the University of Saskatchewan. He was in the private practice of law in Saskatoon from 1981 to 1997, with an emphasis on labour law. Mr. Seibel resides in Saskatoon.

Wally Matkowski - Vice-Chairperson

Wally Matkowski was appointed Vice-Chairperson of the Board in March, 2001. Mr. Matkowski obtained his Bachelor of Arts degree and his law degree from the University of Saskatchewan. He was in the private practice of law in both Regina and Saskatoon from 1986 to 2001, with a large amount of his time spent as both a labour arbitrator and a mediator. Mr. Matkowski resides in Saskatoon.

Bruce McDonald

Bruce McDonald was appointed to the Board in 1974 as a member representing employees. Mr. McDonald is a retired business agent for the International Brotherhood of Painters and Allied Trades, Local Union 1996. He is a past president of the Canadian Federation of Labour (Sask.). Mr. McDonald resides in Saskatoon.

Ken Hutchinson

Ken Hutchinson was appointed to the Board in March of 1992 as a member representing employers. He previously served on the Board from 1977 to 1986 in the same capacity. Mr. Hutchinson is self-employed as a labour management consultant. Mr. Hutchinson was formerly the Administrator of Personnel Services at the Regina General Hospital and the Director of Industrial Relations for the Saskatchewan Hospital Association. Mr. Hutchinson resides in Fort Qu'Appelle.

Gloria Cymbalisky

Gloria Cymbalisky was appointed to the Board in March of 1992 as a member representing employees. She is a self-employed industrial relations consultant. She was formerly a representative for the Saskatchewan Joint Board, Retail, Wholesale and Department Store Union. Ms. Cymbalisky resides in Regina.

Tom Davies

Tom Davies was appointed to the Board in March of 1994 as a member representing employers. Mr. Davies was formerly the Human Resources Manager for IMC Potash-Esterhazy and is active with the Saskatchewan Chamber of Commerce Labour Committee. Mr. Davies is semi-retired and is self employed as a labour management consultant. He resides near Esterhazy.

Gerry Caudle

Gerry Caudle was appointed to the Board in March of 1994 as a member representing employees. Mr. Caudle had previously served in the same capacity during the 1980s. He is a retired representative with the Canadian Union of Public Employees. Mr. Caudle resides in Saskatoon.

Donald Bell

Don Bell was appointed to the Board in July of 1995 as a member representing employers. Mr. Bell is President of Insulation Applicators Ltd. Mr. Bell resides in Regina.

Brenda Cuthbert

Brenda Cuthbert was appointed to the Board in July of 1995 as a member representing employers. Ms. Cuthbert is the Director of Human Resources for Kindersley Transport Ltd. Ms. Cuthbert resides in Saskatoon.

Donna Ottenson

Donna Ottenson was appointed to the Board in July of 1995 as a member representing employees. Ms. Ottenson is a Registered Nurse in long-term care in Regina and an active member of the Saskatchewan Union of Nurses. Ms. Ottenson resides in Regina.

Bob Todd

Bob Todd was appointed to the Board in July of 1995 as a member representing employees. Mr. Todd is Business Agent for the United Brotherhood of Carpenters & Joiners. Mr. Todd resides in Saskatoon.

Hugh Wagner

Hugh Wagner was appointed to the Board in July of 1995 as a member representing employees. Mr. Wagner is the General Secretary for the Grain Services Union. Mr. Wagner resides in Regina.

Judy Bell

Judy Bell was first appointed to the Board in July of 1996 as a member representing employers. Ms. Bell was formerly the Director of Labour Relations for the Regina District Health Board and is presently a labour relations consultant and a lay Bencher of the Law Society of Saskatchewan. Ms. Bell resides in Regina.

Ron Asher

Ron Asher was appointed to the Board in July of 1998 as a member representing employers. Mr. Asher is President of Clearlite Glass Ltd. Mr. Asher resides in Saskatoon.

Mike Carr

Mike Carr was appointed to the Board in July of 1998 as a member representing employers. Mr. Carr is Vice-President, Director of Personnel for IPSCO Saskatchewan Inc. Mr. Carr resides in Regina.

Mike Geravelis

Mike Geravelis was appointed to the Board in July of 1998 as a member representing employees. Mr. Geravelis is a staff representative with United Steelworkers of America and is a member of the Saskatchewan Federation of Labour. Mr. Geravelis resides in Regina.

Leo Lancaster

Leo Lancaster was appointed to the Board in July of 1998 as a member representing employers. Mr. Lancaster is a retired labour relations consultant with Saskatchewan Association of Health Organizations. Mr. Lancaster resides in Regina.

Marianne Hodgson

Marianne Hodgson was appointed to the Board in July of 1998 as a member representing employers. Ms. Hodgson is the Managing Director of Hodgson Consulting Ltd. Ms. Hodgson was formerly the Executive Director of the Saskatchewan Registered Nurses' Association and Director of Nursing at Regina General Hospital. Ms. Hodgson resides in Regina.

Patricia Gallagher

Patricia Gallagher was appointed to the Board in January of 2000 as a member representing employees. Ms. Gallagher is currently the Executive Director of Operations with the Saskatchewan Government and General Employees Union. She has been employed there since 1982 in several capacities. She was formerly employed by the Saskatchewan Federation of Labour as Executive Assistant from 1976 to 1982. Ms. Gallagher resides in Regina.

Duane Siemens

Mr. Siemens was appointed to the Board in 2001 as a member representing employees. Mr. Siemens is currently employed as a millwright with Sterling Pulp Chemicals in Saskatoon. Mr. Siemens was formerly the president of CEP Local 609, secretary and vice president of the Saskatchewan Federation of Labour, and past president of the Saskatoon & District Labour Council. Mr. Siemens resides in Saskatoon.

II. The Trade Union Act

In Canada, legislative jurisdiction over industrial relations has, since a ruling of the Supreme Court of Canada in 1925, fallen largely under provincial jurisdiction. Fortunately, the potential this presented for legal fragmentation was offset by varying combinations of interprovincial management and union structures, common history and common day-to-day economic and political conditions. The result is a remarkable commonality of core principles and procedures in all 11 Canadian jurisdictions.

The main features of Saskatchewan's Trade Union Act, like its counterparts in all other Canadian jurisdictions, may be summarized as follows:

- traditional courts are replaced by a specialized, quasi-judicial tribunal with exclusive and binding jurisdiction over the matters assigned to it by *The Trade Union Act*;
- common law of conspiracy and restraint of trade is abolished insofar as it applies to employees who bargain collectively;
- the majority of employees determine for all employees in a group whether they will bargain collectively and, if so, through which union;
- an employer is required to recognize the union chosen by the majority of its employees as their exclusive representative for the purpose of bargaining collectively;
- the employer and the union are required to bargain in good faith with a view to concluding a collective bargaining agreement;
- a number of unfair labour practices are created to protect employees and unions from any attempt by the employer to interfere with their rights;
- strike and lock-out activity is regulated, but not prohibited;
- specific issues, such as union security, technological change, conciliation, voting procedures and religious exclusions are addressed; and,
- remedial and enforcement procedures are included in the statute.

In short, the Act provides the legal framework for collective bargaining, along with a procedure for adjudicating disputes and enforcing rights and obligations. *The Trade Union Act*, like its counterparts in all other Canadian jurisdictions, does not attempt to prohibit economic conflict between employees and employers, but only to control it. It does not attempt to regulate the outcome of collective bargaining, but merely the process to be followed.

The function of the Labour Relations Board within this statutory framework is to identify the parties which will participate in collective bargaining, and to monitor the procedural aspects of the bargaining process. Under *The Trade Union Act*, the Board is not required to follow all of the formal rules of procedure which have been developed in courts of law. The Board attempts to conduct its hearings in a way which will make them accessible to representatives of the parties who have no legal training, and which will allow the Board to identify the issues which are genuinely in dispute.

III. *The Construction Industry Labour Relations Act, 1992*

Passed in 1992, *The Construction Industry Labour Relations Act, 1992*, S.S. 1992, c. C-29.11, provides for a system of collective bargaining in the building trades between organizations representing groups of contractors and the construction unions. The supervision of this statutory system is conferred on the Board under the Act.

IV. *The Health Labour Relations Reorganization Act*

Passed in 1996, *The Health Labour Relations Reorganization Act*, S.S. 1996, c. H-0.03, appointed a commissioner to examine the organization of labour relations between health sector employers and employees in the Province. The Dorsey Commission report was submitted, and *The Health Labour Relations Reorganization (Commissioner) Regulations*, R.R.S., c. H-0.03, Reg. 1 came into force, in January, 1997.

The legislation confers upon the Board the power to make orders for the purpose of carrying out the intent of the Act and respecting any matter arising out of the reorganization of labour relations in the health care sector not addressed in the Regulations.

V. Budget Summary

The total budget of the Saskatchewan Labour Relations Board for the fiscal year ending March 31, 2001 was \$608,000. The actual sum expended by the Board during the fiscal year was \$601,581.

The Board has, over time, displayed an ability to manage its resources efficiently. It should be noted, however, that it is unable to control or predict the nature or number of applications put before it, and as a result, the relationship of expenditure to budgetary allocation cannot be guaranteed.

VI. Summary of Board Activity for 2000-2001

Between April 1, 2000, and March 31, 2001, the Labour Relations Board held 12 monthly meetings lasting a total of 140 days. A total of 287 applications were received and a total of 340 were disposed of by the Board during the year. Tables 2 and 3 show these applications by type of application and disposition. The five-year trend is shown by disposition in Tables 3 and 4 and by type in Tables 5 and 6.

During 2000-2001, 57 certification orders covering 1,167 employees were issued by the Board and 12 certification orders affecting 284 employees were rescinded.

It is not possible in this report to convey a complete picture of the nature and range of applications brought before the Board during the year. It may be helpful, however, to mention briefly some of the issues which are illustrative of the many types of questions which arise from applications before the Board.

The Board considered the issue of an appropriate bargaining unit in the taxicab industry in *National Automobile, Aerospace, Transportation and General Workers Union of Canada (CAW – Canada) v. United Cabs Limited, et al.*, [2001] Sask. L.R.B.R. 108, concluding that single taxi franchise owners and lessees and the drivers used by them and by multiple franchise owners and lessees were an appropriate unit.

During the reporting period the Board heard several applications for assistance in achieving a first collective agreement.

In *Grain Services Union, Local 1450, v. Bear Hills Pork Producers Limited Partnership*, [2001] Sask. L.R.B.R. 101, the Board was called upon to intervene to impose certain provisions of a first collective agreement where the parties agreed to settle according to the terms of a report by the Board agent but disagreed as to the implementation of the report in drawing the agreement. In *National Automobile, Aerospace Transportation and General Workers Union of Canada (CAW – Canada) v. Saskatchewan Indian Gaming Authority Inc.*, [2001] Sask. L.R.B.R. 42, the Board determined that the reference of a dispute by agreement of the parties to the Board under s. 24 of *The Trade Union Act* may constitute a waiver of the pre-conditions for an application for first contract assistance under s. 26.5 of the Act.

In *Saskatchewan Provincial Building and Construction Trades Council v. Central Mill Construction Ltd., et al. and Industrial Wood and Allied Workers of Canada, Local 1-417*, [2001] Sask. L.R.B.R. 59, the Board was asked to consider whether the contractors engaged in the construction of a sawmill had committed unfair labour practices by voluntarily recognizing the IWA of Kamloops, B.C., with respect to work performed in all of the construction trades by reason that the work was not done under the collective agreements between the Council's member unions and the representative employers' organization pursuant to *The Construction Industry Labour Relations Act, 1992*.

The Board found that because the contractors were not "unionized employers" under the CILRA, 1992 they were not required to bargain through the representative employers' organization and concluded that the voluntary recognition of the IWA did not prevent the Council's members from organizing the contractors' employees nor did it affect their status as the exclusive bargaining agents for their appropriate trade divisions.

During the reporting period, there was a significant increase in the number of applications alleging a failure of the duty by a union to fairly represent an employee with respect to grievance and arbitration proceedings.

In *Napady v. Canadian Union of Public Employees*, [2000] Sask. L.R.B.R. 296, where the Union admitted at the hearing that it had failed in its duty to fairly represent the applicant, in addition to the usual remedy directing the filing of a grievance by the union and its acceptance by the employer, the Board ordered the union to pay the applicant's costs of travel to attend the hearing.

In *Woodside v. Regina Police Association*, [2000] Sask. L.R.B.R. 496, upheld on judicial review [2000] Sask. L.R.B.R. c-7 (Q.B.), the Board awarded the applicant the legal costs of the application to the Board where there was evidence of bad faith by the union in the treatment of the applicant.

The Board's determination that it was within its jurisdiction to hear an application for certification of a unit of employees of a casino operated by a First Nations organization in *National Automobile, Aerospace Transportation and General Workers Union of Canada (CAW – Canada) v. Saskatchewan Indian Gaming Authority Inc.*, [1999] Sask. L.R.B.R. 625, was upheld on judicial review by the Saskatchewan Court of Queen's Bench, [2000] Sask. L.R.B.R. c-2, and further upheld on appeal to the Saskatchewan Court of Appeal, [2000] Sask. L.R.B.R. c-37. An application for leave to appeal to the Supreme Court of Canada is pending.

The Board reviewed the policy considerations and jurisprudence regarding the obligations of an employer with respect to the union security provisions of *The Trade Union Act* in *Canadian Union of Public Employees, Local 4195 v. Board of Education of the Saskatchewan Rivers School Division, No. 119*, [2000] Sask. L.R.B.R. 104.

After a consultation process with the Board's stakeholders, the Board implemented a policy, effective February 1, 2001, designed to achieve more expeditious hearing and determination of applications for certification and rescission of certification.

All applications for certification filed with the Board after that date that were granted or dismissed before the fiscal year end March 31, 2001 were heard within 20 calendar days of the receipt of the application and were decided within 10 days of their last hearing date. There were no applications for rescission of certification filed after that date that were granted or dismissed by the Board before fiscal year end.

During the reporting period, the Board added to its staff a second vice-chairperson, Wally Matkowski.

During the reporting period, the Board continued to encourage the use of pre-hearing conferences to expedite the formal hearing process, encourage settlement discussions and to facilitate the voluntary use of alternative dispute resolution.

In conjunction with its publisher, the Saskatchewan Legal Education Society Inc. (SKLESI), the Board continued the publication of its Reasons for Decision and any subsequent court decisions during the reporting year in the Saskatchewan Labour Relations Board Reports. The Board wishes to thank SKLESI, its Executive Director and staff for their considerable effort and continued cooperation in the publication of the Reports.

VII. Tables

Table 1

Labour Relations Board
Organizational Chart
March 31, 2001

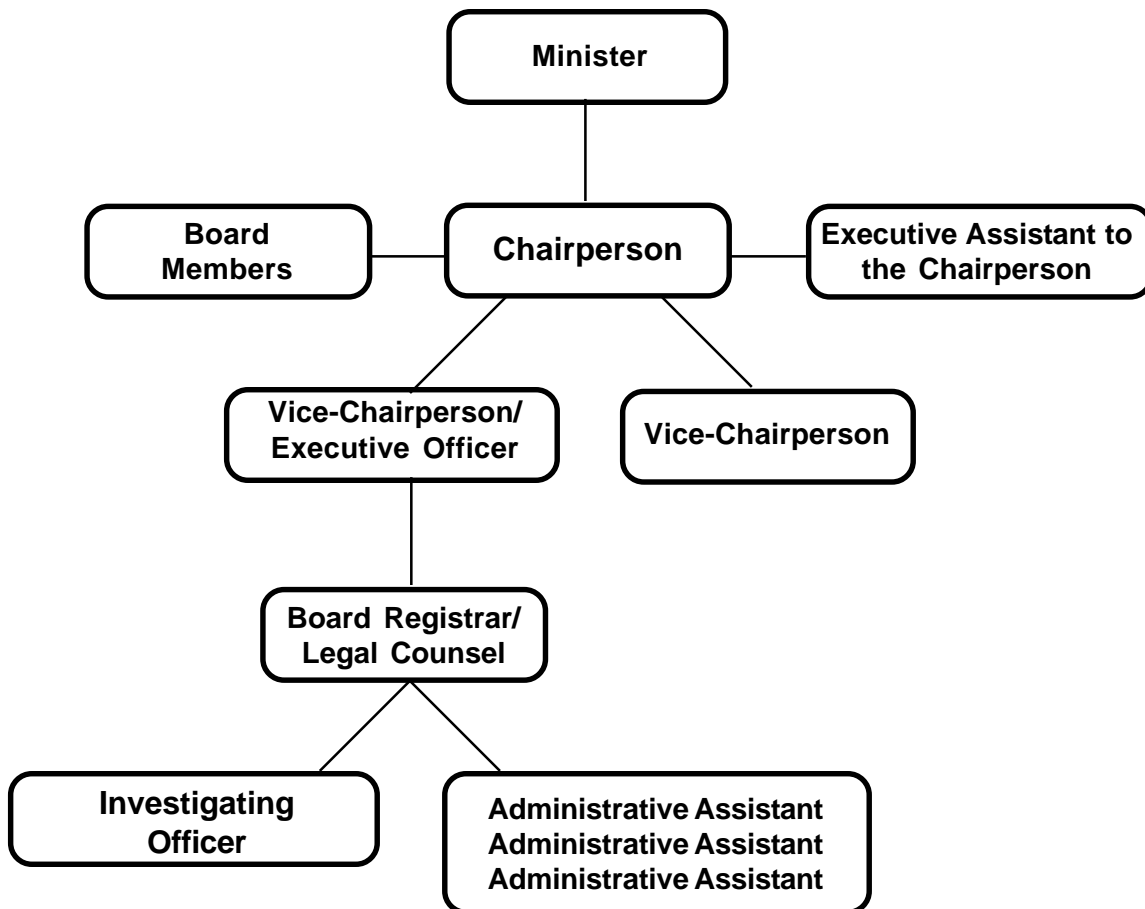


Table 2

**Applications under *The Trade Union Act*
by Type of Application and Disposition, 2000-2001**

Type of application and disposition	Applications	Type of application and disposition	Applications
Total Applications*	340	Raid	6
Granted	171	Granted	3
Dismissed	24	Dismissed	3
Withdrawn	113		
Sine Die	32	Amendment or Rescission	
Certification		(Section 5, clauses i, j and k)	A17, R17
(Section 5, clauses a, b and c)	68	Granted	A15, R12
Granted	57	Dismissed	A0, R3
Dismissed	4	Withdrawn	A0, R2
Withdrawn	5	Sine Die	A2, R0
Sine Die	32		
Unfair Labour Practice		Exclusion on religious grounds	
(Section 5, clause d)	105	(Section 5, clause l)	3
Granted	17	Granted	3
Dismissed	2		
Withdrawn	72	Employee determination	
Sine Die	14	(Section 5, clause m)	2
		Granted	1
Reinstatement		Dismissed	1
(Section 5, clause f)	24		
Granted	11	Strike Votes	
Dismissed	0	(Section 11, clause 8)	1
Withdrawn	11	Withdrawn	1
Sine Die	2		
Monetary Loss		Reconsideration	
(Section 5, clause g)	26	(Section 13)	1
Granted	13	Withdrawn	1
Dismissed	0		
Withdrawn	11	Reference of Dispute	
Sine Die	2	(Section 24)	2
		Withdrawn	1
Company Dominated		Sine Die	1
(Section 5, clause h)	0		
Provisional Employee Determination		Duty of fair representation	
(Section 5.2)	6	(Section 25.1)	16
		Granted	2
Interim Applications		Dismissed	4
(Section 5.3)	9	Withdrawn	5
Granted	4	Sine die	5
Dismissed	5		
Withdrawn	0	First Collective Bargaining	
		Agreements (Section 26.5)	6
		Granted	3
		Withdrawn	1
		Sine Die	2

Table 2 - Continued

**Applications under *The Trade Union Act*
by Type of Application and Disposition, 2000-2001**

Type of application and disposition	Applications	Type of application and disposition	Applications
Membership in Trade Union		Technological Change	
(Section 36.1)	0	(Section 43)	1
		Withdrawn	1
Transfer of Obligation		Health Applications	4
(Section 37)	20	Certification/HLLRA	0
Granted	16	Unfair Labour Practice	0
Dismissed	2	Amendment	4
Withdrawn	2	Construction Applications	5
Related Employer		Granted	4
(Section 37.3)	1	Sine Die	1
Sine Die	1	Ratification Votes	0
Transfer of Bargaining Rights			
(Section 39)	0		

*341 applications and interim applications were disposed of although 287 applications were received
Source: Saskatchewan Labour Relations Board files

Table 3

**Applications to the Labour Relations Board under *The Trade Union Act*,
by Disposition, 1996-97 to 2000-2001**

	1996-97	1997-98	1998-99	1999-2000	2000-2001
Total Applications	340*	243	284**	325	340
Granted	111	126	153	144	163
Dismissed	33	18	21	22	19
Withdrawn	84	70	82	118	113
Determined	1	1	0	0	0
Deferred	0	0	0	0	0
Sine Die	4	17	18	22	32
To Conciliation	0	0	1	0	0
Joint Amnd—Dorsey	11	3	0	0	4
Cert.-Dorsey	74	1	0	1	0
Other Dorsey	0	2	0	3	0
Interim	10	5	9	15	9

Under *The Trade Union Act*, the Board may determine the outcome of any dispute referred to it by either party.

The decision of the Board is final and binding.

*Total applications for 1996-97 include 12 first collective agreement applications previously listed in disposition categories no longer in use. See the 1996-97 Annual Report for details

Records for Sine Die, Dorsey and Interim Applications started in 1996-97. The Disposition of Interim Applications is shown in Table 2.

**1998-99 Figures Amended.

Source: Saskatchewan Labour Relations Board files.

Table 4

**Applications to the Labour Relations Board under
The Construction Industry Labour Relations Act, 1992,
by Disposition, 1996-97 to 2000-2001**

Year	Total Applications	Granted	Dismissed	Withdrawn	Determined	Sine Die
1996-97	2	0	0	0	1	1
1997-98	0	0	0	0	0	0
1998-99	1	0	0	1	0	0
1999-00	0	0	0	0	0	0
2000-01	5	4	0	0	0	1

Source: Saskatchewan Labour Relations Board files.

Table 5**Applications under *The Trade Union Act* by Type of Application, 1996-97 to 2000-2001**

Type of Application	1996-97	1997-98	1998-99	1999-2000	2000-2001
Total Applications	340*	243	284**	325	335
Certification (Section 5, clauses a, b and c)	81	92	88	113	68
Unfair Labour Practices (Section 5, clause d)	59	64	46	78	105
Reinstatement (Section 5, clause f)	13	14	15	28	24
Monetary loss (Section 5, clause g)	15	14	15	33	26
Company dominated (Section 5, clause h)	0	0	0	0	0
Amendment or Rescission (Section 5, clauses i, j and k)	43	28	51	A12 R14	A17 R17
Exclusion on religious grounds (Section 5, clause l)	1	3	3	3	3
Employee determination (Section 5, clause m)	1	0	1	3	2
Provisional determination (Section 5.2(l))	1	1	3	0	6
Interim Application (Section 5.3)	10	5	9	15	9
Strike Votes (Section 11(8))	0	0	0	0	1
Reconsideration (Section 13)	7	1	2	0	1
Reference of Dispute (Section 24)	1	1	0	2	2
Duty of Fair Representation (Section 25.1)	5	5	29	8	16

Table 5 - Continued**Applications under *The Trade Union Act* by Type of Application, 1996-97 to 2000-2001**

Type of Application	1996-97	1997-98	1998-99	1999-2000	2000-2001
First Collective Bargaining Agreements (Section 26.5)	13	5	5	5	6
Raid	–	–	1	0	6
Membership in T.U. (Section 36.1)	–	–	–	1	0
Transfer of Obligation (Section 37)	2	1	11	3	20
Related Employer (Section 37.3 / Section 18 CILRA)	–	–	1	1	1
Transfer of Bargaining Rights (Section 39)	–	2	1	0	0
Technological Change (Section 43)	2	1	2	2	1
Ratification Votes (Section 45)	0	0	0	0	0
Health Applications	86	6	1	4	4

Table 6**Applications under *The Construction Industry Labour Relations Act, 1992*
by Type of Application, 1996-97 to 2000-2001**

Type of Application	1996-97	1997-98	1998-99	1999-2000	2000-2001
Total Applications	2	0	1	0	5
Section 5	0	0	0	0	1
Section 10.2	0	0	0	0	4
Section 11	1	0	0	0	0
Section 16	0	0	0	0	0
Section 18	0	0	1	0	0
Section 25	0	0	0	0	0
Section 29	0	0	0	0	0
Section 30	1	0	0	0	0
Section 37	0	0	0	0	0

Source: Saskatchewan Labour Relations Board files.

