

2000

Workplace Safety and Insurance Appeals Tribunal

Tribunal d'appel de la sécurité professionnelle et
de l'assurance contre les accidents du travail

Annual Report



2000

Workplace Safety and Insurance Appeals Tribunal

Tribunal d'appel de la sécurité professionnelle et
de l'assurance contre les accidents du travail

Annual Report



Workplace Safety and Insurance Appeals Tribunal
505 University Avenue, 2nd Floor
Toronto, Ontario M5G 2P2

ISSN: 1480-5707

©2001

TABLE OF CONTENTS

| | |
|---|----|
| INTRODUCTION | v |
| CHAIR'S REPORT | |
| THE MILLENIUM MARCH | 1 |
| HIGHLIGHTS OF THE 2000 CASE ISSUES | 3 |
| Appeals under the WSIA | 3 |
| Board Policy Under the WSIA | 4 |
| Benefits Under the Earlier Acts | 6 |
| Employer Issues | 7 |
| Right to Sue Applications | 8 |
| APPLICATIONS FOR JUDICIAL REVIEW | 9 |
| OMBUDSMAN REVIEWS | 10 |
| TRIBUNAL REPORT | |
| ACHIEVEMENTS IN APPEAL PROCESSING | 13 |
| Tribunal Caseload Trends: A Historical Overview | 13 |
| The Action Plan: The Tribunal's Response to the Challenges of Caseload Expansion | 14 |
| Caseload Intake | 16 |
| Caseload Dispositions | 16 |
| Remaining Caseload Inventory | 18 |
| Comparative Statistics for 2000 Hearings and Decision Productivity | 18 |
| Party Representation | 19 |
| TRIBUNAL ORGANIZATION | 19 |
| Vice Chairs, Members and Staff | 19 |
| Office of the Executive Director | 19 |
| Office of Counsel to the Chair | 20 |
| Office of the Vice Chair Registrar | 20 |
| The Vice-Chair Registrar | 21 |
| The Intake Department | 21 |
| Pre-hearing Screening | 21 |
| Registrar Information Centre (RIC) | 21 |
| Tribunal Counsel Office | 22 |
| Pre-hearing Work | 22 |
| Post-hearing Work | 22 |

| | |
|---|----|
| Lawyers | 22 |
| Medical Liaison Office | 23 |
| Information Department | 26 |
| Ontario Workplace Tribunals Library | 26 |
| Publications | 27 |
| Case Management Systems | 28 |
| Financial Matters | 29 |
| | |
| APPENDIX A | |
| VICE-CHAIRS AND MEMBERS IN 2000 | 45 |
| CHAIR, VICE-CHAIRS AND MEMBERS – REAPPOINTMENTS IN 2000 | 47 |
| NEW APPOINTMENTS DURING 2000 | 48 |
| SENIOR STAFF | 49 |
| MEDICAL COUNSELLORS | 49 |
| | |
| APPENDIX B | |
| AUDITORS' REPORT AND FINANCIAL STATEMENTS | 51 |



Introduction

The Workplace Safety and Insurance Appeals Tribunal (“WSIAT” or “Tribunal”) considers appeals from final decisions of the Workplace Safety and Insurance Board (“WSIB” or “the Board”) under the *Workplace Safety and Insurance Act, 1997* (“WSIA”). The WSIA, replacing the *Workers’ Compensation Act*, came into force January 1, 1998. The Tribunal is a separate and independent adjudicative institution. It was formerly known as the Workers’ Compensation Appeals Tribunal, until the name was changed pursuant to section 173 of the WSIA.

This volume contains the Tribunal’s Annual Report to the Minister of Labour and to the Tribunal’s various constituencies, together with a Report of the Tribunal Chair. It is primarily a report on the Tribunal’s operations for fiscal year 2000 and comments on some matters which may be of special interest or concern to the Minister or the Tribunal’s constituencies.

The Tribunal Report focuses on Tribunal activities, financial affairs and the evolving administrative policies and practices.



Chair's Report

THE MILLENNIUM MARCH

If a journey of a thousand miles begins with but a single step, then the elimination of a massive appeal backlog probably begins with a single appeal disposition. The appeal disposition in question was likely completed in October 1999, after the Tribunal's backlog reached its peak in September 1999. That first step was part of the implementation of the Tribunal's Action Plan to dispose of its active inventory backlog by March 31, 2002. The earlier announcement of the Tribunal's plan to meet aggressive quarterly targets to reduce active inventory was initially met with understandable scepticism in client communities, and with associated concerns about adequate Tribunal resources, maintenance of decision quality, administrative capacity to process appeals and creative management approaches to handling the large caseload.

While there are still miles to go before anyone at the Tribunal can sleep, by the end of year 2000 it was clear to even the most sceptical observer that the Tribunal performance could be viewed as a success story to date. Certainly those delegations from British Columbia and Nova Scotia which arrived to study the Tribunal's performance, regarded the Appeals Tribunal as an adjudicative success story. The Minister of Labour approved resources to meet the year 2000 needs; regular internal training and quality controls ensured continuation of a quality service; and a flexible and creative approach to new problems by Tribunal personnel allowed the organization to meet its quarterly targets. The active inventory of appeals, which had climbed over the 9,000 level in September 1999, fell below 5,700 by the end of 2000. By December 2000, the healthy scepticism of 1999 had been replaced by a sense of relief and "pleasant surprise" at achievements realized during this year.

By the end of the year, the Tribunal had increased its roster of adjudicators to 85, including 55 Vice-Chairs. The increased number of new adjudicators meant a corresponding increase in training resources as each new Vice-Chair and Member completed an internal WSIAT training program given by the Office of the Counsel to

the Chair (OCC) as well as the external training program for new adjudicators offered by the Society of Ontario Adjudicators and Regulators (SOAR). In addition, the Tribunal scheduled extra full-day and half-day training programs on various legal and medical issues for all adjudicators and those Tribunal staff members involved with the particular training issues. Regular training and educational updates continued as a significant measure for ensuring quality in decision-making.

Information technology (IT) continued to play a key role in the Tribunal's operation. As most lawyers and representatives know, all Tribunal decisions are now available on Quicklaw, and the Tribunal's website (www.wsiat.on.ca) contains general information on the Tribunal as well as specific material on filing appeals, Practice Directions and Tribunal processes. Development of a new case management system (tracIT) is scheduled for completion and implementation in the spring of 2001. TracIT should help streamline the appeals process and enable Tribunal personnel to track appeals quickly and easily. The system is also designed to be sufficiently flexible that it should interact with WSIB technology, once the Board's Agility Project has been completed. Ultimately, the new system should enable the Tribunal to replace mountains of paper with an optical storage drive – a facility can benefit the entire workplace safety and insurance system once Appeal Records can be transferred electronically from the WSIB to the Appeals Tribunal.

During 2000, the Tribunal also maintained its unblemished record in the area of judicial reviews. Through its emphasis on well-reasoned decisions and knowledgeable adjudicators, the Tribunal has gradually established itself as an “expert” Tribunal which is usually accorded a significant degree of judicial deference within the court system. It is a hard won reputation within the Ontario administrative justice system, and one which the Appeals Tribunal continues to zealously guard.

As the Tribunal refined its adjudicative processes and administrative practices, it also continued its ongoing administrative discussions with the WSIB in an attempt to develop a more streamlined and efficient adjudicative system. Both the Board and Tribunal implemented the “whole person” adjudication guideline aimed at ensuring related cases and issues are heard as one appeal. In addition, the two agencies continued to refine the Board certification process whereby only hearing-ready Appeal Records are sent to the Tribunal. The Board, Ministry and Tribunal also continued to work at improving caseload forecasting and budget forecasting. At the Tribunal, a focus on ADR/pre-hearing dispositions helped produce earlier and more cost-effective dispositions of appeals from the WSIB. The effects of the regular training programs and OCC decision-review process at the Tribunal also began to emerge as the timelines for releasing Tribunal decisions gradually improved. By the end of 2000, the median release time for Tribunal decisions (i.e., time from hearing to decision release) was approximately 60 days – one-half of the legislated release period of 120 days.

As the year drew to a close, the Ministry of Labour announced another review of the Tribunal, as well as other MOL agencies. While the announcement understandably had an unsettling effect upon the Tribunal, our personnel continued to respond to the challenge of reducing the backlog. To their credit, their dedication to the organization meant that the Tribunal achieved its year-end target in accordance with its undertaking given to the Ombudsman in the spring of 1999.

As the Tribunal moves into the true millennium, the march will continue towards the target date of March 31, 2002. Knowledgeable adjudicators will continue to craft quality decisions on a timely basis to preserve that Tribunal reputation as a highly specialized or “expert” administrative law tribunal. The Tribunal will also continue to work with its external client communities to address any impending concerns and deal with those administrative problems in a responsible way. The phrase “nimble justice” has been used upon occasion to describe the timely and flexible responses of adjudicative agencies to changes in appeal patterns and caseloads. In 2001, the Tribunal should continue to enhance its reputation for agility and nimble responses to administrative justice issues. The experience of 1999 and 2000 should help continue an evolution towards an ever-improving adjudicative system under the Workplace Safety and Insurance Act in Ontario.

HIGHLIGHTS OF THE 2000 CASE ISSUES

This section highlights some of the legal, factual and medical issues considered by the Tribunal during 2000.

The *Workplace Safety and Insurance Act, 1997*, came into force on January 1, 1998. It creates a scheme of workplace insurance for accidents occurring after December 31, 1997, and amends and continues the pre-1997, pre-1989 and pre-1985 *Workers' Compensation Acts* for earlier injuries. During 2000, the Tribunal adjudicated cases under all four Acts. For convenience, cases dealing with the WSIA are reviewed first.

Appeals Under the WSIA

The year 2000 was the first year the Tribunal heard appeals under the new loss of earnings provisions in the WSIA. See, for example, *Decisions No. 2336/00* (September 28, 2000) and *2499/00* (October 30, 2000). *Decision No. 1428/00* (2000), 54 W.S.I.A.T.R. 264, raised an interesting issue regarding entitlement when a worker's return to work following a lay-off and recall was delayed due to his need for a suitable modified job. The Vice-Chair found that the WSIA entitles workers to payments when loss of earnings results from a compensable injury. Loss of earnings benefits were payable as both parties agreed that the reason for the worker's delayed return was not the employment situation, but the compensable injury.

The WSIA provides that loss of earnings benefits may be reduced or suspended if a worker fails to co-operate in early and safe return to work (ESRTW) or a labour market re-entry (LMR) assessment or plan. The Tribunal has asked for submissions from the Board and the parties on the effect of the Board's policy requiring notice of non-co-operation. See *Decisions No. 2336/00* and *1900/00I* (October 18, 2000).

The WSIA introduced a time limit of six months or "such longer period as the Tribunal may permit" for appealing Board decisions. This time limit applies to appeals under the WSIA and the prior Acts. Early Tribunal cases held that a degree of leniency was appropriate during the transitional period following the creation of the new time limit. The Tribunal has refined its approach now that the time limit has been publicized and parties and representatives have gained familiarity with it. In deciding whether to grant an extension, the Tribunal balances a number of factors, including: the extent of delay and any explanation for it; whether there is evidence to show an intention to appeal within time; whether the applicant knew of the time limit; whether the applicant acted diligently; whether there is prejudice to a respondent; whether the case is so stale that it cannot be reasonably adjudicated; whether the issue is so connected to another appeal that the Tribunal cannot reasonably adjudicate the other appeal without considering it; whether there could be a substantial miscarriage of justice due to defects in the prior process or clear and manifest errors; and whether there are exceptional circumstances such as very serious illness. See, for example, *Decisions No. 1678/00E* (2000), 54 W.S.I.A.T.R. 304, *1507/00E* (2000), 54 W.S.I.A.T.R. 287, *1440/00E* (June 22, 2000), *1088/00E* (June 20, 2000), and *418/00E* (2000), 53 W.S.I.A.T.R. 287.

In October 2000, the Tribunal adopted a Practice Direction on *Time Extension Applications* which sets out the principles applied in the Tribunal's cases. The Practice Direction should assist parties and representatives prepare their submissions in future cases.

Board Policy Under the WSIA

While the Tribunal previously considered Board policy in deciding appeals, the WSIA now expressly states that, if there is applicable Board policy, the Appeals Tribunal shall apply it when making a decision. This requirement also applies to appeals under the earlier Acts.

Section 126 of the WSIA sets out a process for the Board to identify applicable policy and for the Tribunal to refer policy to the Board if the Tribunal concludes that the policy is inapplicable, unauthorized or inconsistent with the Act. The referral is to be in writing and state the reasons for the Tribunal's conclusions. The Board then has 60 days to provide the parties with an opportunity to make submissions and issue a written direction with reasons.

As noted in the last Annual Report, in December 1999, the Tribunal referred the Board's pre-1998 policy on chronic stress back to the Board for review. One of the issues was whether the Board's practice in pre-1998 chronic stress cases was a "policy" for purposes of section 126. On February 18, 2000, a Panel of the Board of Directors determined that the Board's practice had not been established in a formal enough manner to be considered a "policy" for the purposes of section 126. The Board of Directors Panel indicated that it would issue a policy on what constitutes "policy" for the purposes of section 126. *Decision No. 871/9912* (2000), 53 W.S.I.A.T.R. 101, took a similar approach to the Board of Directors in finding that a section 126 policy generally means a formal written policy authorized or approved by the Board's Board of Directors or by their written delegate. The requirements of formality, clarity and authorization are particularly important if the subject-matter of the policy affects the determination of workers' and employers' rights and entitlement.

Decision No. 1943/98A (August 22, 2000), made a section 126(4) referral of the Board's policy of classifying a municipally-run home for the aged in Schedule 1 instead of Schedule 2. The Board responded that there was a basis for classifying such homes under either Schedule 1 or Schedule 2 and made submissions on the start date of any transfer to Schedule 2.

In situations where the Board has not identified an applicable policy, the Tribunal has considered less formal policies and practices of the Board and also policies on similar issues, where they are helpful. See, for example, *Decisions No. 1024/00* (2000), 54 W.S.I.A.T.R. 228, *1600/99* (September 21, 2000) and *1963/00* (September 28, 2000). In *Decision No. 1132/98* (2000), 54 W.S.I.A.T.R. 67, it was held that although there was no policy, the Board practice regarding the treatment of Second Injury and Enhancement Fund (SIEF) relief in CAD-7 cases was entitled to considerable deference. The employer's appeal did not fall within one of the usual exceptions and, in considering the merits and justice of the appeal, it was appropriate to consider the effect on other employers as well as the appellant. The appeal was denied as it was, in effect, asking the Tribunal to amend the Board's practice in administering the CAD-7 system.

In a few cases the Board has asked the Tribunal to reconsider a decision when the Board disagreed with the Tribunal's interpretation or application of policy. The Board's jurisdiction to request reconsideration was challenged by the parties in some of these cases. It has been held that the issue is not the Board's jurisdiction to make a request, but the Tribunal's jurisdiction to reconsider whenever the Tribunal decides this is advisable. While there needs to be exceptional circumstances for a non-party to be granted standing, the integrity of the Tribunal's relationship with the Board as well as with the parties, requires a mechanism whereby the parties or the Board can ask the Tribunal to look at the correctness of the original decision. See *Decision No. 585/98R* (2000), 54 W.S.I.A.T.R. 51. The Tribunal granted the Board's request in *Decision No. 1624/99R* (June 6, 2000) to reconsider the retroactive adjustment of the

employer's NEER account, and in *Decision No. 1543/98R2* (2000), 53 W.S.I.A.T.R. 72, to vary the transfer of costs where the Board settled a third party motor vehicle action on the basis that the third party was 100% liable. However, the Board does not have special status to request a reconsideration and the usual threshold test must be met. Thus, the Board's reconsideration request was not granted where, even if the matter were reopened, it was not clear that the result would be different. See *Decision No. 585/98R* (employer interest) and *Decision No. 195/00R* (2000), 54 W.S.I.A.T.R. 173 (retroactivity date of a reclassification based on a Board audit).

Benefits Under the Earlier Acts

Most appeals during 2000 raised issues under the earlier workers' compensation legislation. The pre-1985 and pre-1989 Acts provide workers with pensions for permanent disabilities and temporary benefits for short-term disabilities. Beginning in 1989, transitional supplements are also available for workers receiving pensions. The pre-1997 Act introduced a dual award system of non-economic loss (NEL) awards and future economic loss (FEL) awards for permanent impairment, in addition to temporary benefits for temporary disabilities.

Board policy ties initial and ongoing entitlement to a transitional supplement under section 147(2) of the pre-1997 Act to participation in a vocational rehabilitation program that is likely to increase earning capacity sufficiently to approximate a worker's pre-injury earnings.

Decision No. 583/98R (June 8, 2000), considered an argument that injured workers are subject to discrimination if they do not receive an increase in their FEL benefit when they voluntarily accept an early retirement package since they will have more difficulty finding alternative employment than uninjured workers. The Panel noted that discrimination is defined as a distinction based on grounds relating to a personal characteristic which has the effect of imposing burdens, obligations or disadvantages that are not imposed on others, or which withholds or limits access to opportunities, benefits or advantages available to others. The Panel reasoned that the appropriate comparison group was not uninjured workers but other workers receiving FEL benefits. The FEL scheme was not discriminatory as injured workers offered an early retirement package do not have any additional burden or limited access to FEL benefits. The pre-1997 Act is intended to compensate for the effects of workplace injuries and to return injured workers to work at no wage loss. Compensation is paid where this cannot be achieved.

Section 43(2) of the pre-1997 Act provides that eligibility for FEL benefits ceases at age 65. There is no authority to extend FEL benefits where an 83-year-old security guard is injured at work. While the Tribunal is to decide on the merits and justice, this statutory direction is intended to provide guidance when the legislation or policy is ambiguous or where there is a discretion to exercise. It cannot be used to

extend benefits where the language is clear and unambiguous. See *Decision No. 988/00* (2000), 54 W.S.I.A.T.R. 223.

Other interesting Tribunal cases on the pre-1997 Act include: *Decision No. 918/00* (2000), 54 W.S.I.A.T.R. 214 (which held that the Board must continue to enjoy some reasonable judgement in applying the AMA guides to NEL ratings); *Decision No. 490/98R* (2000), 54 W.S.I.A.T.R. 41 (which held that pre-1997 provisions on earnings basis are intended to create a flexible system to obtain a fair representation of the worker's earnings, so that it may be appropriate to calculate short-term and long-term benefits differently); *Decision No. 2457/00* (November 9, 2000) (which rationalizes the Board's policies that entry level wages are used to deem earnings at the completion of an LMR plan and that deemed earnings of fully experienced workers are used at the final FEL review); and *Decision No. 168/99* (2000), 54 W.S.I.A.T.R. 132 (which granted a pension for disfigurement when a skin condition covered more than 80% of the worker's body and affected the worker's employment opportunities).

Employer Issues

In 2000, the Tribunal heard a number of appeals involving issues of particular interest to employers, such as classification, SIEF relief, experience rating, late payment charges and penalties. The last Annual Report noted that the Board had asked the Tribunal to reconsider several Tribunal decisions which had found that before January 1, 1997, the Board did not have a policy on employer interest and awarded interest on the merits and justice. *Decision No. 585/98R* (2000), 54 W.S.I.A.T.R. 51, found that the Tribunal had the jurisdiction to consider employer interest appeals and that interest was not awarded as an obligation, but on a discretionary basis in accordance with the merits and justice of the case. With the benefit of the Board's recent submissions, the Panel found that the Board had a policy on pre-1997 employer interest. However, the earlier Tribunal decisions had not been unreasonable in their findings. The Board had the discretion at all times to pay interest on the merits and the justice and the Board's policy provided for some discretion with respect to the start date of interest. Since it was not clear the result would be different, the decision was not reviewed on the merits. However, the Board's clarification and reasoning could be considered in future appeals. And see *Decisions No. 503/98R, 504/98R, 505/98R, and 506/98R* (all released June 28, 2000).

Decision No. 2137/99 (2000), 54 W.S.I.A.T.R. 159, allowed an employer's appeal to transfer costs where the worker of the accident employer was injured by an electrical shock on another employer's premises due to an improperly installed electrical sign. The employer who owned the premises owed a duty of care to ensure that the premises did not pose a danger to people and to ensure that the person who installed the sign was a qualified electrician.

Decision No. 1679/99 (2000), 53 W.S.I.A.T.R. 160, commented that the central purpose of experience rating plans is to encourage safe workplaces by financial incentives and penalties. An employer's appeal to increase the retroactive adjustment of its VER account to reflect SIEF relief was dismissed when the Board's decision was made according to the policy in force at the time. A retroactive adjustment cannot influence past conduct and it is unlikely to influence conduct in the future. Similarly, the Board's penalty assessment was upheld where it was consistent with assessment practices at the time. The statutory direction to consider the merits and justice also requires consideration of the Board's duty to maintain the insurance fund and the employer had a significant history of excessive compensation costs. See *Decision No. 273/97* (2000), 53 W.S.I.A.T.R. 40.

Right to Sue Applications

The workplace safety and insurance scheme and earlier workers' compensation statutes are based on a "historic trade-off" in which workers gave up the right to sue employers in exchange for statutory no-fault benefits. The Tribunal has the exclusive jurisdiction to determine whether an injured worker's right to sue in court has been removed. Right to sue applications often raise complicated legal issues which have a significant impact on the parties.

Decision No. 1782/00I (October 16, 2000), considered the situation of a 16-year-old restaurant worker who was severely injured by an electrical shock when he was instructed by his supervisor to change light bulbs in a sign, even though it was the employer's policy to use an electrical contractor. The worker was entitled to benefits as he was in the course of his employment and his right of action against his employer was removed. However, the right of action against the property manager was not removed, since it was not a Schedule 1 employer. The Tribunal also indicated that it was arguable that the supervisor was not in the course of his employment and this could be the subject of a reconvened hearing, if necessary. *Decision No. 1531/00* (August 14, 2000), found that an American worker injured in the course of a short business call at an Ontario branch office had only a transitory presence in Ontario and was not covered by the Ontario legislation.

Section 10(2) of the pre-1997 Act provides that, if a worker settles a law suit for less than the benefits to which he is entitled, the difference is payable to the worker. *Decision No. 878/98* (September 27, 2000), held that amounts received to settle dependants' claims under the *Family Law Act* cannot be considered under section 10(2) if the worker is alive since the pre-1997 Act only covers dependants if the worker is deceased. However, prejudgment interest is included on a plain reading of section 10(2). And see *Decision No. 1838/99* (February 6, 2000), which held that where a claim for general damages arising from a work injury is statute-barred, a claim for punitive damages with respect to the same matter cannot proceed.

APPLICATIONS FOR JUDICIAL REVIEW

There were a number of judicial review applications dealt with by the Tribunal in the past year.

Canadian Pacific Railway v. Ontario (Workplace Safety & Insurance Appeals Tribunal), reported at (2000), 130 O.A.C. 330, 49 C.C.E.L. (2d) 222, was an application by the employer for judicial review of Tribunal *Decisions No. 647/95I* (1996), 37 W.C.A.T.R. 234, *647/95I2* (1997), 42 W.C.A.T.R. 8, and *647/95* (August 13, 1997). The issue was whether the right of an injured worker to be re-employed pursuant to section 54 of the pre-1997 Ontario *Workers' Compensation Act* applied to a federally regulated undertaking. As this was a constitutional question, the standard applied by the court was whether the Tribunal's decision was "correct," rather than whether it was unreasonable. The Divisional Court unanimously concluded that the Tribunal's decision was correct, and the application was dismissed on February 22, 2000.

An application for leave to appeal to the Ontario Court of Appeal was made by Canadian Pacific. On April 26, the Tribunal was served with a Notice of Abandonment of the employer's application for leave to appeal.

A judicial review application in *Solomon v. Workplace Safety & Insurance Appeals Tribunal and Workplace Safety & Insurance Board (Decisions No. 1101/97* (March 9, 1998) and *1101/97R* (February 16, 1999)), where the issue was the appropriate method of calculating a permanent disability transitional supplement pursuant to section 147(4), was unanimously dismissed by the Divisional Court on March 28, 2000.

The applicant sought leave to appeal to the Ontario Court of Appeal. The Court of Appeal refused leave on July 11. The applicant has filed an application for leave to appeal to the Supreme Court of Canada.

On June 14, an application for judicial review in *Ahmed v. Workplace Safety & Insurance Appeals Tribunal (Decisions No. 309/99I* (March 4, 1999) and *309/99* (July 15, 1999)) was heard by the Divisional Court in Toronto. The Tribunal's decision that a worker was not entitled to compensation benefits for alleged knee and elbow conditions was found not to be patently unreasonable and the application was unanimously dismissed.

An application for judicial review in *Mohns v. Workplace Safety & Insurance Appeals Tribunal (Tribunal Decision No. 1435/97* (December 23, 1997)), a decision which determined whether there was a right to bring a civil action, was served on the Tribunal in December 1998. This application was dismissed for delay by the Divisional Court Registrar on January 27, 2000.

Similarly, in early 1999 the Tribunal was served with an application for judicial review in *Lessing v. Workplace Safety & Insurance Appeals Tribunal* (Tribunal Decision No. 1410/98 (October 9, 1998)), a decision which determined whether there was a right to sue. In September 2000, the Divisional Court Registrar ordered that the application be dismissed for delay.

At the end of the review period the only outstanding matter was the application for leave to appeal to the Supreme Court of Canada in *Decisions No. 1101/97 and 1101/97R*, as noted above.

OMBUDSMAN REVIEWS

In 2000, the Ombudsman's Office notified the Tribunal of 30 case-related complaints. This compares to 17 notifications in 1999. Notifications received in 2000 do not necessarily deal with Tribunal decisions released in that year. The increase in notifications came after several years of significantly increased Tribunal dispositions.

The Ombudsman's Office thoroughly investigates case-related complaints and considers the reasonableness of the Tribunal's analysis. The Tribunal is notified if the Ombudsman requires further information or if issues arise which suggest the need for a formal investigation. Most investigations result in the Ombudsman concluding that there is no reason to question the Tribunal's decision, although in the past a few have resulted in the Tribunal initiating a reconsideration process.

Twenty-one Ombudsman notifications were closed during 2000. Of these, 16 were closed by a letter from an investigator advising that no further investigation was deemed necessary. Five were closed with a report either from the Ombudsman, the Director or an investigator, concluding that the complaints were not supported or that further investigations were not warranted. To date, none of the notifications received during 2000 has resulted in a recommendation that the Tribunal reconsider a decision.

The 1999 Annual Report noted that the Ombudsman had undertaken a review of the timeliness of the Tribunal's appeal process and released a final report in April 1999. The report recommended "that the Tribunal take all necessary steps, including requesting additional resources, to ensure that it is able to process appeals in a timely manner." The report also made a related recommendation that the Ministry of Labour address the situation and "take all necessary steps to ensure that the Workplace Safety and Insurance Appeals Tribunal has the capability and resources to fulfil its mandate effectively." In November 2000, a Tribunal delegation, including the Tribunal's Executive Director, gave an update on the Tribunal's process changes and success in meeting its production targets, at an Ombudsman Ontario staff conference. In December 2000, the Tribunal Chair provided information to the Ombudsman about the improved process for obtaining policy from the Workplace Safety and

Insurance Board, and about certain timelines for the scheduling of out-of-Toronto hearings. The Ombudsman's Office has also followed up with the Ministry of Labour. For instance, in August 2000, the Ministry advised the Ombudsman that the Tribunal exceeded its June 30, 2000 inventory target.



Tribunal Report

ACHIEVEMENTS IN APPEALS PROCESSING

Tribunal Caseload Trends: A Historical Overview

In recent years, the Tribunal has experienced rapidly expanding caseload levels. Caseload intake first showed a significant increase in 1996 when it grew by 56% from the previous year. In comparison, during the first half of the 1990s, incoming cases grew by an average annual rate of 11.6%. The number of incoming cases continued to rise in 1997 and 1998 until it peaked at over 10,000 cases in 1998, up from about 5,000 cases in the previous year.

The rise in Tribunal caseload intake is the result of a significant increase in the number of final decisions issued by the Workplace Safety and Insurance Board starting in 1996. Chart 4 (p. 30) shows the relationship of the Tribunal's caseload to Board processes. From 1994 to 1996, final resolutions at the Board nearly doubled in volume. These high volumes persisted in the succeeding years. Consequently, appeals at the Tribunal rose to unprecedented levels.

During this period of intense caseload pressure, the Tribunal's disposition rates rose considerably to respond to the increased caseload intake. However, dispositions were not as high as intake levels. As a result, caseload inventory accumulated at a faster rate in recent years. In 1999, active appeals (excluding post-decision issues) peaked at over 9,000 cases, an increase of approximately 60% from the year-end 1997 level. Before the rise in caseload intake in 1996, inventory levels grew at an average annual rate of 9.5%.

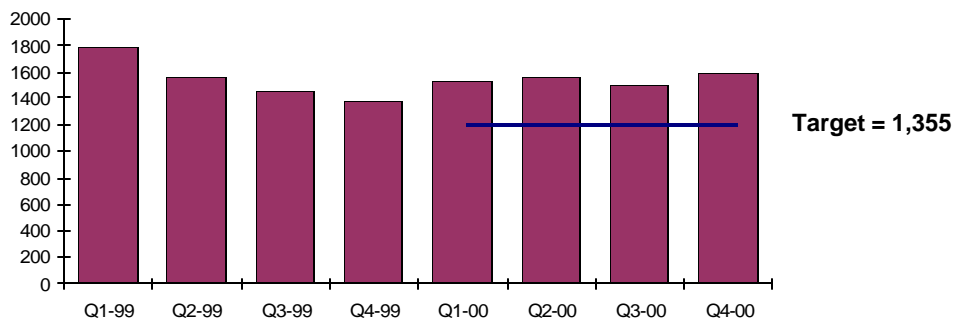
The Action Plan: The Tribunal's Response to the Challenges of Caseload Expansion

In the spring of 1999, the Tribunal developed its Action Plan. It outlined an aggressive strategy for management of the Tribunal's expanded caseload intake and inventory backlog. Caseload issues were addressed with a two-pronged approach, that of processing new incoming cases at the same time as reducing the current active inventory. Specific inventory reduction and production targets were set for each quarter. Post-decision cases – Reconsiderations, Ombudsman investigations and Judicial Reviews – were not included in the projections and targets, because they represented a relatively small percentage of cases and were difficult to forecast.

The Year 2000 marks the first full year of Action Plan implementation. The Tribunal was successful in remaining on target with its overall caseload reduction schedule. The key indicators for measuring achievements in appeals processing are incoming appeals, appeal dispositions and remaining inventory. These indicators are depicted in the charts below.

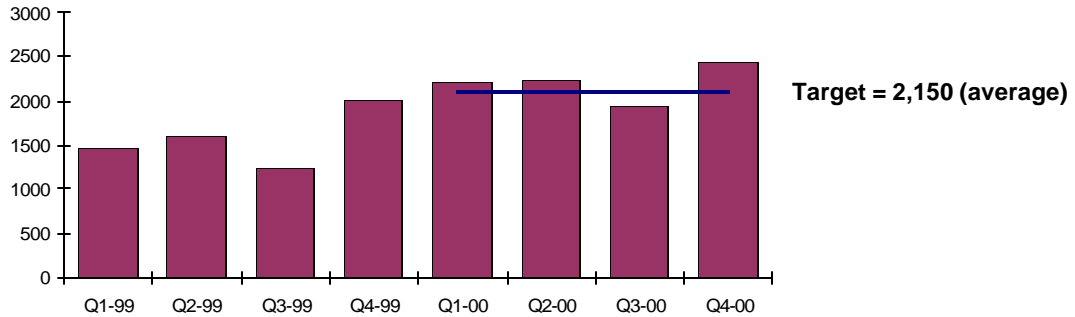
- In Year 2000, incoming appeals averaged 1,544 per quarter, compared with 1,355 anticipated in the Action Plan.

CHART 1
Incoming Appeals: Actual vs. Target



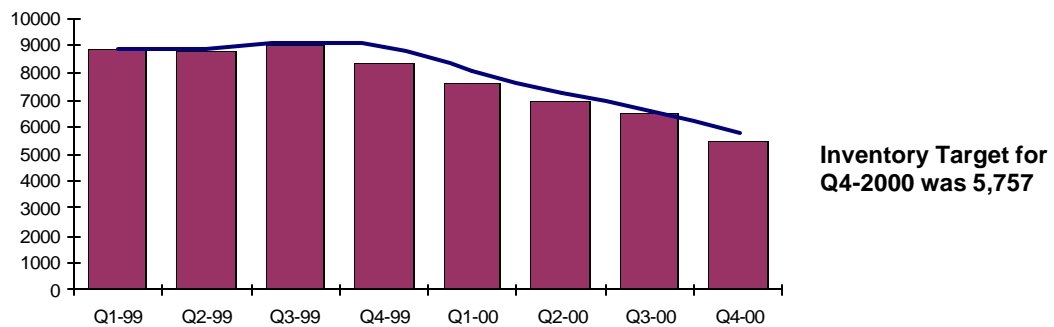
- Dispositions averaged 2,202 per quarter, compared with 2,150 anticipated in the Action Plan.

CHART 2
Appeal Dispositions: Actual vs. Target



- At year end, the active appeals inventory reached 5,690; this reduction exceeded target by 67 cases.

CHART 3
Inventory of Remaining Appeals: Actual vs. Target



Caseload Intake

Year 2000 Trends by Quarter

The Tribunal's Action Plan projected incoming cases at a level of 1,355 throughout each quarter of Year 2000. However, statistics showed that incoming levels were significantly higher for both new appeals and reactivated appeals. These sources combined to produce an average incoming appeal volume of 1,544 cases per quarter during the year (see Chart 5, p. 31).

Historical Trends by Year

The historical breakdown of cases received by appeal type is shown in Chart 6 (p. 32). Entitlement-related cases constituted the majority of incoming cases (95%) while Special Section cases (Leave, Right to Sue, Medical Exam and Access) accounted for 4% of the total.

Caseload Dispositions

Year 2000 Trends by Quarter

The Tribunal's Action Plan was established using the assumption that 2,200 dispositions per quarter were required except over the summer months (third quarter) when 2,000 dispositions would be required. Chart 7 (p. 33) depicts the caseload disposition targets by stage using the average of 2,150 dispositions required per quarter. Production for the year totalled 8,810 dispositions, exceeding the overall target of 8,600.

Historical Trends by Year

Between 1995 to 2000, case dispositions have increased by an average annual rate of 35.1%. This excludes the approximately 3,300 bookmarked appeals¹ registered at the Tribunal in 1998.

The historical breakdown of case dispositions by appeal type is shown in Chart 8 (p. 34). The mix of appeal types in Year 2000 is similar to the historical trend

¹ Bookmarked appeals refer to the "Letters of Intent" to appeal filed by persons in 1998 to protect their right to appeal at the Tribunal in response to the six-month time limit introduced by the *Workplace Safety and Insurance Act, 1997*. Although these bookmarked appeals made a significant impact on the Tribunal's caseload inventory and production statistics, it is not expected that this volume of bookmarked cases will be experienced in the future.

observed. Entitlement-related cases accounted for 96% of cases disposed by the Tribunal while Special Section cases contributed to 4% of the total.

Chart 9 (p. 35) shows case dispositions by processing stage. Historically, a few trends can be observed regarding the various types of appeal dispositions. At the pre-hearing stage, the proportion of appeals that have been Made Inactive has increased. It peaked in 1998 due to the numerous letters of intent received by the Tribunal during the first six months of 1998. Since appellants were not ready to proceed at that time, the Tribunal placed these appeals in inactive status. Inactive status was created as a case management tool to avoid expending scarce Tribunal resources on cases that were not hearing-ready. Appeals Made Inactive continued to make up the greater proportion of appeal dispositions in the pre-hearing stage during 2000. This is mainly the result of the early screening of cases. Cases that are not ready to proceed are identified early in the appeal process and placed in inactive status until they are ready to proceed. As the number of appeals Made Inactive increased, the proportion of appeals Withdrawn by Applicant substantially declined.² At the hearing stage, the majority of appeal dispositions consisted of Decisions Issued. In 1994, 812 decisions were issued at the hearing stage. By the end of Year 2000, this number reached 3,676, more than triple the 1994 level.

Chart 10 (p. 36) provides a further level of detail of case dispositions by showing the data by processing stage as well as appeal category for Year 2000. Most Entitlement-related (54.7%) and Special Section (84.5%) cases were disposed before a hearing. On the other hand, most Right to Sue cases (75.6%) were disposed after a hearing.

Chart 11 (p. 37) shows case dispositions distributed by completion time. Approximately one-third of all case dispositions were made within six months from the start date of the appeal. Ninety-eight per cent of Medical Exam and Access cases were resolved in that time frame. Seventeen per cent of cases were resolved within six to 12 months. This included over 1,400 Entitlement and Leave cases.

2 In the past, when workers were not ready to proceed, for instance because it became clear that further medical evidence was needed to claim, or there was a knowledge change with respect to their injuries, they normally withdrew their appeal without fear of losing their right to return and continue their case. However, with the introduction of the *Workplace Safety and Insurance Act, 1997*, the limitation periods required a person to “file a notice of appeal with the Appeals Tribunal within six months after the decision or within such longer period as the Tribunal may permit.” To keep the worker’s right to appeal, appeals are currently placed in inactive status until they are hearing-ready.

Remaining Caseload Inventory

Year 2000 Trends by Quarter

The Action Plan set out an aggressive inventory reduction schedule for the Tribunal. The Tribunal's active caseload inventory peaked at over 9,000 cases in September 1999. The caseload reduction process began in October 1999, and caseload reductions were achieved from that point as targeted.

On December 31, 1999, 8,305 cases remained in active inventory. This level was below the year-end 1999 target of 8,937 cases. As shown in Chart 12 (p. 38), during each quarter in Year 2000, the Tribunal remained within the target set by the caseload reduction process. According to the Plan, the Tribunal's active caseload inventory would be reduced to 5,757 cases by the end of Year 2000. With an active appeals inventory of 5,690 cases on December 31, 2000, the Tribunal exceeded its target for the year.

Historical Trends by Year

The 5,690 active cases remaining at the end of Year 2000 represents a 37% decline from the Tribunal's peak level as measured in September 1999.

The distribution of active cases, as at December 31, 2000, is displayed in Chart 13 (p. 39). Fifty-four per cent of cases were in the pre-hearing process stage. Within this stage, most cases were in the Tribunal Counsel Office (TCO) pre-hearing work stage or awaiting hearing at the Tribunal. Twenty-one per cent of cases were at the initial preparation stage. At the post-hearing stage, 15% of cases were at the WSIAT decision-writing stage and 8% were in TCO or Office of Counsel to the Chair (OCC) follow-up.

Comparative Statistics for 2000 Hearings and Decision Productivity

Chart 14 (p. 40) depicts the Tribunal's workload with respect to the Scheduling of Hearings, number of Hearings Conducted, Cases Heard, Decisions Issued and Dispositions by Decision for the years 1994 to 2000.

As shown in the column labeled "Change from prior year," except for the three pre-decision categories in 1995, the Tribunal made productivity gains each year from 1994 to 2000. (Cases 'bookmarked' in 1998 are not a factor in these production figures because they were made Inactive well before the Scheduling process.) A comparison of production between 1994 and 2000 shows that Tribunal productivity increased by more than 200% in most of the key categories.

A breakdown of the Cases Heard category (but not shown on the chart), indicates that single adjudicators were used in approximately 64% of hearings in 2000 and tripartite panels in approximately 36%. Hearing type breakdown reveals that formal Oral hearings continued to be the most common hearing type at 73%, the Written hearing type was used in 17% of hearings, the remaining 10% of all hearings in 2000 involved Teleconferences, the Vice-Chair Registrar, or Motions Day. These percentages are roughly the same as the 1999 hearing type breakdown.

Chart 15 (p. 41) shows the breakdown of decision types. Final Decisions represent the largest decision type (87%), followed by Interim Decisions (8%) and finally Reconsideration Decisions (5%).

Party Representation

This section briefly summarizes party representation for Year 2000 based on information gathered from released decisions.

The caseload for the year showed that for injured workers: 41% were represented by consultants; 23% by lawyers; 16% by the Office of the Worker Adviser; and 12% by union representatives. The remaining 8% was allocated among various non-categorized representation, for instance, family friend, family member, MPP, or lawyers.

According to this same categorization, employer representation showed: 64% were represented by consultants; 13% by lawyers; 4% by company personnel; and 15% by the Office of the Employer Adviser. The remaining 4% was non-categorized.

TRIBUNAL ORGANIZATION

Vice-Chairs, Members and Staff

Lists of the Vice-Chairs and Members, senior staff and Medical Counsellors who were active at the end of the reporting period, as well as a list of 2000 reappointments and newly appointed Vice-Chairs and Members, can be found in Appendix A.

Office of the Executive Director

The Tribunal's case management appeal processes and administrative support services are co-ordinated through the Office of the Executive Director. The Executive Director oversees the preparation of the Tribunal's Business and Production Plans

and co-ordinates these operations through a group of senior managers. Accountability of senior managers to the Executive Director ensures that pre-hearing, hearing and post-hearing processes operate effectively and meet quality standards and objectives identified by the Tribunal.

As part of the Tribunal's ongoing effort to promote a quality hearing and decision process, the Executive Director and Chair work with the Tribunal's Advisory Group which includes representatives from the injured workers and employer communities, the Workplace Safety and Insurance Board, the Ministry of Labour and other related agencies such as the Office of the Worker Adviser and Office of the Employer Adviser, with a view to refining and improving the workplace safety and insurance system. The position of Executive Director is a key position within the Tribunal operation and this was particularly so during the year 2000 when the Tribunal was going through the most critical stage of its inventory reduction Action Plan. The Tribunal's Executive Director during the year 2000 was Zeynep Onen.

Office of Counsel to the Chair

The Office of Counsel to the Chair (OCC) has been in existence since the creation of the Tribunal. It is a legal department separate from the Tribunal Counsel Office and is not involved in the hearing process or in making submissions in cases. The draft review process, which has been described in prior Annual Reports, is the responsibility of Counsel to the Chair and the Associate Counsel to the Chair.

Other OCC responsibilities include providing advice to the Chair and Chair's Office, training and professional development, current awareness and research, administering the reconsideration process, responding to *Freedom of Information and Protection of Privacy Act* issues and complaints, and assisting with Ombudsman matters (A summary of FIPPA activity is shown in Chart 19, p. 43) Given that the Tribunal now makes decisions under four different Acts and that a number of new adjudicators have been appointed, there was a continued emphasis on training during 2000.

Office of the Vice-Chair Registrar

On receipt of an appeal, under the *Workplace Safety and Insurance Act (WSIA)*, the Appeals Tribunal receives the Appeal Record from the Board. This usually consists of the worker claim file, any necessary employer file, information necessary for notice to the respondent and any related files.

The Tribunal must then process the file for hearing by giving notice to the parties and the Board, ensuring that the record is complete and that the case is ready for hearing. This work must take place before the hearing is scheduled, and it constitutes a significant portion of the Tribunal's work load.

Since the October 1, 1999, restructuring of the Tribunal's pre-hearing processes, most pre-hearing appeals have been processed through the Office of the Vice-Chair Registrar (OVCR). The OVCR works alongside an ADR unit that promotes non-hearing resolutions, and the Tribunal Counsel Office that completes the processing work for complex appeals.

The Vice-Chair Registrar

The Tribunal's Vice-Chair Registrar is Martha Keil. She may make rulings on preliminary and pre-hearing matters such as admissible evidence, jurisdiction and issue agenda, on referral by Tribunal staff and the parties. The process may be oral or written. She always releases a written decision with reasons. Any request to have a matter put to the Vice-Chair Registrar may be made by request to OVCR staff.

The Intake Department

The Intake Department is responsible for the initial processing of an appeal. Intake staff review all Appeal Applications received by the Tribunal to ensure that they are complete and to identify jurisdiction issues. This department also orders the Board file and policy statement under section 126 of the WSIA, and streams cases for pre-hearing processing. The Intake Department also processes applications for extension of time, and applications under section 58 of the WSIA objecting to a Board decision to allow access to a worker file.

Pre-hearing Screening

The pre-hearing staff reviews all files to ensure that they are ready for hearing. This step is necessary to reduce the number of cases that result in adjournments and post-hearing investigations due to incomplete issue agenda, outstanding matters at the Board or incomplete evidence. The pre-screening process includes written appeals as well as early intervention mediation, which is directed at pre-hearing case resolution.

Registrar Information Centre (RIC)

The RIC answers routine correspondence and inquiries on appeals, as well as general public inquiries. This includes the receipt and distribution of evidence received after the appeal is made, as well as the distribution of updated Appeal Record materials, provides a uniform and unique citation to identify a decision wherever that decision may be found.

Tribunal Counsel Office

Under the Tribunal's new case processing model, the Tribunal Counsel Office (TCO) no longer has responsibility for processing the majority of appeals. TCO now handles only the most complicated appeals which involve novel or complex medical, legal or policy issues. These appeals are streamed to TCO from the Intake Department, or are assigned to TCO for post-hearing work at the direction of a Panel or Vice-Chair.

TCO consists of three groups, each reporting to General Counsel: the Medical Liaison Office, the legal workers and the lawyers.

Pre-hearing Work

Once a complex appeal is received by TCO, a legal worker prepares the case record for the appeal. When it is completed, the case record is sent to the parties and a date is set by the Scheduling department. The appeal is assigned to a legal worker or lawyer depending upon its complexity. The case is handled by the legal worker or lawyer until the final decision is released. They deal with matters that arise prior to the hearing, and provide assistance to the parties if there are questions concerning preparation for the appeal.

Post-hearing Work

If a Tribunal Vice-chair or Panel concludes that additional information or submissions are required following a hearing, a request for assistance is made to TCO. The appeal is assigned to a legal worker or a lawyer. The legal worker or lawyer assigned to the case carries out the directions of the Panel or Vice-chair, and co-ordinates any necessary input from the parties to the appeal.

Lawyers

TCO has a small group of lawyers who handle the most complex appeals involving legal or medical issues. TCO lawyers also provide technical case-related advice to the legal workers, the Early Resolution Stream, and the Vice-Chair Registrar Team. In addition, the lawyers provide non-appeal related advice to other departments of the Tribunal.

A senior TCO lawyer is assigned on a part-time basis to assist the Early Resolution Team, in addition to handling a caseload of occupational disease appeals. One lawyer acts as group leader for the legal workers, as well as handling a number of complex appeals. Workplace stress appeals, other complex entitlement issues and human resource matters are assigned to one designated TCO lawyer. Another lawyer handles the employer assessment, classification and French language appeals.

TCO lawyers and General Counsel also represent the Tribunal on applications for judicial review of Tribunal decisions, and other Tribunal-related court matters.

Medical Liaison Office

The Appeals Tribunal must frequently decide appeals that raise complex medical issues, or require further medical investigation. The Tribunal thus has an interest in ensuring that Panels and Vice-Chairs have sufficient and appropriate medical evidence on which to base their decisions. The Medical Liaison Office (MLO) plays a major role in identifying and investigating medical issues and obtaining medical evidence and information to assist the decision-making process. To allow MLO to carry out its mandate, the Tribunal has access to outside medical expertise and resources.

The Tribunal's relationship with the medical community is particularly important. Ultimately, the quality of the Tribunal's decisions on medical issues is dependent on that relationship. MLO co-ordinates and oversees all the Tribunal's interactions with the medical community and maintains a positive relationship as evidenced by the Tribunal's continuing ability to readily enlist leading members of the profession to its service.

Appeals directed to the Tribunal Counsel Office are reviewed by MLO prior to the hearing. MLO's review identifies those cases in which the medical issues may be problematic, complex or novel to the Tribunal. Once the issues are identified, MLO may refer the appeal materials to a Medical Counsellor. Cases that are deemed to be sufficiently complex or medically incomplete by the Office of the Vice-Chair Registrar may also be referred to the MLO for review.

Medical Counsellors

The Medical Counsellors are a group of eminent medical specialists, who have accepted part-time employment with the Tribunal and serve as consultants to WSIAT in the medical area generally. They play a critical role in assisting MLO to carry out its mandate and in ensuring the overall medical quality of Tribunal decision-making. The Medical Counsellors' Chair is Dr. Ross Fleming. A list of the Medical Counsellors is provided in Appendix A.

The Medical Counsellors review the cases identified by MLO to verify that the medical evidence is sufficient and that the record contains any necessary opinions from appropriate experts. They also ensure that questions or concerns about the medical issues which may need clarification for the Panel or Vice-Chair are identified.

At the pre-hearing stage, Medical Counsellors advise Tribunal counsel on the sufficiency of medical evidence. This may include obtaining further information from the patient's treating physician(s). In addition, Medical Counsellors may recommend obtaining an opinion from a Medical Assessor (see below) if the diagnosis of the worker's condition is unclear, if there is a complex medical problem that requires explanation or if there is an obvious difference of opinion between qualified experts.

At the post-hearing stage, Panels or Vice-Chairs requiring further medical investigation may request the assistance of MLO in preparing specific questions that may be helpful in resolving medical issues. Medical Counsellors assist MLO in providing questions for the consideration of the Panels or Vice-Chairs and recommending the most suitable Medical Assessor.

A summary of MLO support and caseload activities is given in Chart 20, p. 43.

Medical Assessors

The Tribunal has the power to initiate medical investigations if it believes it necessary in order to determine any medical question on an appeal. Section 134 of the *Workplace Safety and Insurance Act, 1997*, allows for "health professionals" to assist the Tribunal in determining matters of fact. The Tribunal's authorized list of health professionals, called Medical Assessors, is known as the Tribunal's "roster."

Medical Assessors on the roster may be asked to assist the Tribunal in a number of ways. Typically, they are asked to give their opinion on some specific medical question, which may involve examining a worker and/or studying the medical reports of other practitioners. Medical Assessors specializing in a particular field may be requested to assist in educating Tribunal staff in a general way about some medical theory or procedure. They may be asked for an opinion on the validity of a particular theory which a Hearing Panel or Vice-Chair has been asked to accept. They may also be asked to comment on the nature, quality or relevancy of medical literature.

The opinions of Medical Assessors are normally sought in the form of written reports. Copies of the reports are made available to the worker, employer, the Panel or Vice-Chair, and the Board. On occasion, a Hearing Panel or Vice-Chair will want the opportunity to question the Medical Assessor at the hearing to clarify the opinion. In those special cases, the Medical Assessor will be asked to appear at the hearing and give oral evidence. The parties participating in the appeal, as well as the Panel or Vice-Chair, have the opportunity to question and discuss the opinion of the Medical Assessor.

Although references are typically made to the report of the Medical Assessor in the Tribunal decision, the Medical Assessor does not make the decision on appeal.

The actual decision to allow or deny an appeal is the sole preserve of the Tribunal Panel or Vice-Chair.

The Appointment Process for Medical Assessors

The Act does not specify a process for appointing health practitioners to the Tribunal's roster of Medical Assessors. However, the Tribunal has maintained the same process used under the pre-1997 Act, with the exception that the approval of the Lieutenant Governor in Council is no longer required.

That process involves obtaining a list of potential candidates from the Medical Counsellors. Those identified are asked to allow their names to be entered into the appointment process. Those candidates who agree to be nominated and who supply a résumé will have their names circulated to all the Medical Counsellors and to members of the Advisory Group. The Advisory Group is composed of experienced representatives from both the injured worker and employer communities. The Tribunal considers the views of the Medical Counsellors and the Advisory Group when determining the selection for the roster from the available candidates. Appointments are for a three-year term, and may be renewed, subject to approval through the Tribunal's process as described.

Library

MLO places medical articles, medical discussion papers, and anonymized appeal transcripts of expert evidence on medical or scientific issues in the Ontario Workplace Tribunals Library. This collection of medical information specific to issues that arise in the workers' compensation field is unique within the Ontario workplace safety and insurance system and is accessible to the public.

Database

MLO uses a Tribunal-designed database to help track medical issues, information and appeals at the Tribunal. The database provides an easily accessible way to determine what information already exists within WSIAT that may be useful in appeals with similar medical fact situation.

Medical Review

In addition to case-specific medical evidence, MLO co-ordinates an annual medical review of Tribunal decisions. The medical review is internal to the Tribunal. Its purpose is to obtain, from the Medical Counsellors, a medical professional's perspective on the manner in which medical facts or theories are treated or recorded in WSIAT decisions. The medical review permits the Tribunal to evaluate its processes and practices as they relate to medical issues and medical evidence. The

medical review highlights areas for further education of Tribunal Vice-Chairs, Panels and staff through medical education initiatives.

Information Department

Ontario Workplace Tribunals Library

During 2000, a review of Library and Publications Services was conducted by A.F. Church & Associates. The review recommended changes in the organization of staffing, a more proactive program of value-added services and the implementation of a new automated system for the library's databases.

Some of the review's recommendations were implemented, with the result that Library Technicians are now responsible for part of the WSIAT subscription service, processing of orders for individual WSIAT decisions and electronic processing of WSIAT decisions for the Quicklaw database.

One part-time Library Technician was added to staff and one full-time Librarian position was eliminated.

The document delivery fee structure was revised with the implementation of a flat fee rather than a per-page fee. Guidelines regarding document delivery timelines were distributed to major users.

Working with the traIT team, significant progress was made towards enhancements to the Tribunal's Web site. Planned improvements, to be implemented in 2001, will allow Web site visitors to do all of their decisions research on the Web site and to retrieve scheduling and status information about their case.

Renovations of the Library area are in the planning stages.

Because this is only the second year of operation for the Ontario Workplace Tribunals Library, it is difficult to discern any trends; however, information requests did increase from 5,633 in 1999 to 6,112 on 2000. Staff continue to work to gain expertise in the information needs of all the Tribunals served by the library.

Ontario Workplace Tribunal Library Statistics

| | |
|---|-------|
| Information Requests | 6112 |
| Document Delivery Outgoing | 3288 |
| Circulation | 1492* |
| Interlibrary Loan, Incoming Document Delivery | 623 |
| Acquisitions | 575* |
| Items sent to Quicklaw | 2378* |
| Records added to Databases | 1263 |

* October - December only

Publications

WSIAT Decisions On CD-ROM

The *WSIAT Decisions On CD-ROM* service was introduced in the year 2000. It provides the full text for all Tribunal decisions. Subscribers receive one CD-ROM that contains all the decisions released since the Tribunal's inception. Updates are then added quarterly. Although this service is not a searchable database, subscribers can select individual decisions and display or print them.

The *WSIAT Decisions On CD-ROM* is an excellent complement to the *DDS On Disk* service which provides a searchable database of summaries of Tribunal decisions, complete with keywords.

Decision Digest Service

The *Decision Digest Service* will no longer be produced after December 2000 (Binder No. 9 will be the last volume). This applies only to the looseleaf paper service. The *DDS On Disk* will continue to be available, both on diskette (updated monthly) and on CD-ROM (updated quarterly).

Beginning in December 2000, the Publications Department is no longer providing summaries for all released decisions. Those decisions that are of a routine nature on well-established issues will not be summarized, but keywords will still be assigned to all decisions. It is anticipated that approximately half of released decisions will be summarized.

Decision Release

Until midway through the year 2000, the Publications Department was responsible for releasing newly rendered decisions of the Tribunal. The adjudication support team now is performing this task. In the year 2000, the Publications Department summarized 3,236 decisions, an increase of 470 over the figure for 1999.

Revised Publications

The *Inactive Files* practice direction was revised in July 2000. A new practice direction on *Time Extension Applications* was issued on October 11, 2000. The *Member's Code of Professional and Ethical Responsibilities* is a revised (as of June 14, 2000) version of an earlier document known as the *Member's Code of Professional Responsibility*. The Member's Code and the complete package of Practice Directions is available from the Publications Department.

Looking Ahead

The Publications Department has always worked closely with the Tribunal's Library to provide Tribunal staff, adjudicators and the public with a thorough source of timely information and research material. In 2001, the Publications Department and Library will undergo even further integration to form the Tribunal's Resource Centre.

It is anticipated that greater use will be made of the Tribunal's website, www.wsiat.on.ca to enhance public access to relevant information and research materials. The Tribunal will be implementing a new case management system, which may offer fresh options for access to Tribunal publications.

Case Management Systems

Case Management Systems is responsible for the case management functions of the Tribunal, as well as the management of the Systems department. The projects undertaken by this group in Year 2000 reflect the increasingly important role which information technology is gaining in Tribunal processes.

The Tribunal aims to meet the following general objectives in the area of case management and information systems: to bring the Tribunal's DOS-based case management software into currency with the Tribunal's Windows Operating System and to capitalize on the automation features widely available through the use of browser technology; to upgrade the Tribunal's IT skill sets within the production units, and to introduce new analytical software into the standard desktop; to improve the Tribunal's current management of electronic information, and to improve the threshold for fault tolerance; to develop new targets-based reporting systems and implement them in place of static caseload listing and productivity reporting systems; and to strengthen the foundation for the integration of data systems within the framework of the Workplace Safety and Insurance system.

The prototype of the new Case Management System ("tracIT") is currently being refined. Working in conjunction with the Tribunal's overall process of business transformation, Daedalian Systems consultants are now in the advanced stages of software development. The new case management system is anticipated for implementation in the spring of 2001. The final stages of workstation conversion to the new fibre optic infrastructure continue as part of the Tribunal's renovation project and effort to update computer hardware. The Workforce Information Network (WIN) was installed on Tribunal workstations during the year. WIN is the new OPS-wide Human Resources Information System that will provide employees with direct access to their human resource information through the OPS Intranet. An IT Training Program for all Tribunal staff was implemented. This program aims to upgrade and standardize the Tribunal's software and staff skill sets. This involves regularly

scheduled instructor-led training courses as well as self-directed CBT (computer-based training) using CD-ROM.

Financial Matters

A Statement of Expenditures and Variances for the year ended December 31, 2000, (Chart 21, p. 44) is included in this report.

The accounting firm of Deloitte & Touche has completed a financial audit on the Tribunal's financial statements for the period ending December 31, 2000. The audit reports are included in this report as Appendix B.

CHART 4
Relationship of WSIAT Caseload to WSIB Process*

| | 1990 | 1992 | 1994 | 1996 | 1997 | 1998 | 1999 | 2000 |
|---|----------------------------|----------------------------|-----------------------------|---------|---------|---------------------|------------|----------------------|
| No. of WSIB Claims | 473,407 | 377,019 | 370,444 | 348,999 | 341,178 | 345,831 | 367,399 | 354,912 ^A |
| WSIB Decisions: ** | | | | | | | | |
| FEL/PD | 152,876 | 185,763 | 195,289 | 195,949 | 194,232 | 192,534 | n/a | |
| TT/Supp | 97,684 | 96,414 | 76,800 | 65,149 | 60,047 | 56,259 | n/a | |
| Objections to WSIB Decisions*** | DRB - 13,854 HB - 4,634 | DRB - 21,580 HB - 5,997 | DRB - 28,091 HB - 12,716 | 11,219 | 10,869 | 11,501 | 11,678 | |
| WSIB Final Resolutions | 2,963 | 3,883 | 5,628 | 10,232 | 11,957 | 12,562 ^B | 10,913 | 10,252 |
| Global Caseload Intake for WSIAT* | 1,534 | 1,806 | 2,201 | 3,605 | 5,118 | 11,094 | 6,556 | 6,602 |
| Global Caseload Completed by WSIAT* | 1,593 | 1,664 | 1,792 | 2,512 | 3,073 | 8,030 | **** 6,715 | 9,125 |
| WSIAT Global Inventory Caseload* | 1,590 | 1,535 | 2,232 | 3,521 | 5,566 | 8,637 | 8,478 | 5,991 |
| NOTES: | | | | | | | | |
| * WSIAT Global counts include post decision cases | | | | | | | | |
| ** Denotes the number of decisions made in respect of permanent and temporary impairment; in 1994 and following years the number of decisions includes FEL reviews. | | | | | | | | |
| *** DRB = Decision Review Branch, HB = Hearings Branch | | | | | | | | |
| **** Includes 3,300 "bookmarked appeals." | | | | | | | | |
| A As at the end of November 2000. Source: December Monthly Monitor | | | | | | | | |
| B Amended. Formerly reported appealable outcomes - 10,208 | | | | | | | | |

CHART 5
Caseload Intake Trends, 2000

| | | New Appeals* | Re-Activated Appeals** | Total |
|-----------------------|---------------|--------------|------------------------|--------------|
| First Quarter | Anticipated | 1,005 | 350 | 1,355 |
| | <u>Actual</u> | <u>1,162</u> | <u>365</u> | <u>1,527</u> |
| | Variance | 157 | 15 | 172 |
| Second Quarter | Anticipated | 1,005 | 350 | 1,355 |
| | <u>Actual</u> | <u>1,196</u> | <u>361</u> | <u>1,557</u> |
| | Variance | 191 | 11 | 202 |
| Third Quarter | Anticipated | 1,005 | 350 | 1,355 |
| | <u>Actual</u> | <u>1,024</u> | <u>472</u> | <u>1,496</u> |
| | Variance | 19 | 122 | 141 |
| Fourth Quarter | Anticipated | 1,005 | 350 | 1,355 |
| | <u>Actual</u> | <u>1,095</u> | <u>503</u> | <u>1,598</u> |
| | Variance | 90 | 153 | 243 |
| Year-To-Date | Anticipated | 4,020 | 1,400 | 5,420 |
| | <u>Actual</u> | <u>4,477</u> | <u>1,701</u> | <u>6,178</u> |
| | Variance | 457 | 301 | 758 |

* New Appeals refers to entitlement and special section appeals filed at the Tribunal. This measure excludes re-activated appeals, reconsideration requests, Ombudsman investigations, and applications for judicial review.

** Re-activated Appeals refers to entitlement and special section appeals that returned to the Tribunal following earlier 'de-activations' as defined under the Tribunal's Practice Direction (1997).

NOTE:

This chart excludes post-decision figures. The post-decision components of workload (requests for reconsiderations, Ombudsman complaints and judicial reviews) are summarized in Charts 16, 17 and 18.

CHART 6
*Breakdown of Incoming Cases by Appeal Type
 for the years 1991 - 2000*

| INPUT BY TYPE | 1991 | 1992 | 1993 | 1994 | 1995 | 1996 | 1997 | 1998 | 1999 | 2000 |
|---------------------------------|----------|----------|-----------|-----------|-----------|-----------|-----------|------------|-----------|-----------|
| | No. (%) | No. (%) | No. (%) | No. (%) | No. (%) | No. (%) | No. (%) | No. (%) | No. (%) | No. (%) |
| Leave | 31 2.2 | 35 2.1 | 13 0.6 | 17 0.8 | 17 0.8 | 12 0.4 | 18 0.4 | 7 0.1 | 2 0.0 | 2 0.0 |
| Right to Sue | 127 8.9 | 124 7.3 | 113 5.6 | 49 2.4 | 45 2.1 | 49 1.8 | 46 0.9 | 39 0.4 | 35 0.6 | 41 0.7 |
| Medical Exam | 65 4.6 | 76 4.5 | 49 2.4 | 41 2.0 | 26 1.2 | 23 0.8 | 26 0.5 | 0 0.0 | 1 0.0 | 0 0.0 |
| Access | 324 22.7 | 370 21.8 | 511 25.1 | 506 24.3 | 467 21.3 | 450 16.3 | 330 6.7 | 276 2.6 | 209 3.4 | 199 3.2 |
| Total Special Section | 547 38.4 | 605 35.7 | 686 32.8 | 613 29.4 | 555 25.4 | 534 19.2 | 420 8.5 | 322 3.0 | 247 4.0 | 242 3.9 |
| Preliminary (not yet specified) | 0 0.0 | 0 0.0 | 0 0.0 | 0 0.0 | 0 0.0 | 0 0.0 | 75 1.5 | 2523 23.4 | 956 15.4 | 798 12.9 |
| Pension | 2 0.1 | 58 3.4 | 84 4.1 | 32 1.5 | 12 0.5 | 33 1.2 | 35 0.7 | 35 0.3 | 29 0.5 | 68 1.1 |
| M.E.L./F.E.L.* | 0 0.0 | 3 0.2 | 13 0.6 | 34 1.6 | 66 3.0 | 257 9.3 | 253 5.1 | 446 4.1 | 373 6.0 | 302 4.9 |
| Commutation | 6 0.4 | 26 1.5 | 36 1.8 | 35 1.7 | 33 1.5 | 42 1.5 | 49 1.0 | 37 0.3 | 9 0.1 | 4 0.1 |
| Employer Assessment | 6 0.4 | 25 1.5 | 26 1.3 | 58 2.8 | 77 3.5 | 170 6.1 | 893 18.2 | 888 8.2 | 562 9.1 | 527 8.5 |
| Entitlement | 788 55.3 | 816 48.2 | 989 48.7 | 1103 52.9 | 1255 57.4 | 2133 77.1 | 2967 60.4 | 5635 54.2 | 3402 54.3 | 3766 61.0 |
| Ext. post WSIB dec deadline | 0 0.0 | 0 0.0 | 0 0.0 | 0 0.0 | 0 0.0 | 2133 77.1 | 0 0.0 | 314 2.9 | 465 7.5 | 373 6.0 |
| Reinstatement | 31 2.2 | 39 2.3 | 49 2.4 | 56 2.7 | 63 2.9 | 2133 77.1 | 40 0.8 | 15 0.1 | 6 0.1 | 5 0.1 |
| Vocational Rehabilitation** | 1 0.1 | 19 1.1 | 72 3.5 | 80 3.8 | 79 3.6 | 2133 77.1 | 107 2.2 | 110 1.0 | 41 0.1 | 21 0.3 |
| Total Entitlement-related | 834 58.5 | 986 58.2 | 1269 62.5 | 1398 67.1 | 1585 72.4 | 2133 77.1 | 4419 89.9 | 10203 94.8 | 5843 94.1 | 5864 94.9 |
| Jurisdiction | 44 3.1 | 103 6.1 | 77 3.8 | 73 3.5 | 48 2.2 | 98 3.5 | 77 1.6 | 241 2.2 | 118 1.9 | 72 1.2 |
| Total | 1425 | 1694 | 2032 | 2084 | 2188 | 2765 | 4916 | 10766 | 6208 | 6178 |

NOTE:
 This chart excludes post-decision figures. The post-decision components of workload (requests for reconsiderations, Ombudsman complaints and judicial reviews) are summarized in Charts 16, 17 and 18.

* This category represents appeals related to non-economic loss and future economic loss pension criteria introduced by Bill 162.
 ** This category represents appeals related to the increased vocational rehabilitation requirements introduced by Bill 162.

CHART 7
Caseload Disposition Trends, 2000

| | | Intake and Early Review Processes | Screening and Other Prehearing | Hearing Process | Total |
|-----------------------|---------------|--------------------------------------|-----------------------------------|-----------------|--------------|
| First Quarter | Anticipated | 407 | 414 | 1,329 | 2,150 |
| | <u>Actual</u> | <u>584</u> | <u>580</u> | <u>1,039</u> | <u>2,203</u> |
| | Variance | 177 | 166 | -290 | 53 |
| Second Quarter | Anticipated | 407 | 414 | 1329 | 2,150 |
| | <u>Actual</u> | <u>575</u> | <u>835</u> | <u>818</u> | <u>2,228</u> |
| | Variance | 168 | 421 | -511 | 78 |
| Third Quarter | Anticipated | 407 | 414 | 1329 | 2,150 |
| | <u>Actual</u> | <u>525</u> | <u>609</u> | <u>804</u> | <u>1,938</u> |
| | Variance | 118 | 195 | -525 | -212 |
| Fourth Quarter | Anticipated | 407 | 414 | 1329 | 2,150 |
| | <u>Actual</u> | <u>547</u> | <u>797</u> | <u>1097</u> | <u>2,441</u> |
| | Variance | 140 | 383 | -232 | 291 |
| Year-To-Date | Anticipated | 1,628 | 1,656 | 5,316 | 8,600 |
| | <u>Actual</u> | <u>2,231</u> | <u>2,821</u> | <u>3,758</u> | <u>8,810</u> |
| | Variance | 603 | 1,165 | -1,558 | 210 |

NOTE: This chart excludes post-decision figures. The post-decision components of workload (requests for reconsiderations, Ombudsman complaints and judicial reviews) are summarized in Charts 16, 17 and 18.

CHART 8
Breakdown of Case Dispositions by Appeal Type
for the years 1995 - 2000

| OUTPUT BY TYPE | 1995 | | 1996 | | 1997 | | 1998 | | 1999 | | 2000 | |
|----------------------------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|
| | No. | (%) | No. | (%) | No. | (%) | No. | (%) | No. | (%) | No. | (%) |
| Leave | 15 | 0.7 | 16 | 0.7 | 11 | 0.4 | 12 | 0.2 | 6 | 0.1 | 8 | 0.1 |
| Right to Sue | 57 | 2.8 | 49 | 2.1 | 74 | 2.5 | 39 | 0.5 | 41 | 0.6 | 42 | 0.5 |
| Medical Exam | 29 | 1.4 | 26 | 1.1 | 25 | 0.9 | 11 | 0.1 | 3 | 0.0 | 0 | 0.0 |
| Access | <u>475</u> | 23.7 | <u>469</u> | 20.2 | <u>359</u> | 12.3 | <u>262</u> | 3.4 | <u>249</u> | 3.9 | <u>199</u> | 2.3 |
| Total Special Section | 576 | 28.7 | 560 | 24.1 | 469 | 16.1 | 324 | 4.2 | 299 | 4.7 | 249 | 2.8 |
| Preliminary (not yet specified) | 0 | 0.0 | 0 | 0.0 | 55 | 1.9 | 2239 | 29.0 | 963 | 15.2 | 862 | 9.8 |
| Pension | 54 | 2.7 | 28 | 1.2 | 26 | 0.9 | 27 | 0.3 | 30 | 0.5 | 66 | 0.7 |
| N.E.L./F.E.L. * | 31 | 1.5 | 58 | 2.5 | 171 | 5.9 | 251 | 3.2 | 329 | 5.2 | 561 | 6.4 |
| Commutation | 29 | 1.4 | 41 | 1.8 | 31 | 1.1 | 40 | 0.5 | 35 | 0.6 | 26 | 0.3 |
| Employer Assessment | 41 | 2.0 | 85 | 3.7 | 211 | 7.3 | 370 | 4.8 | 1014 | 16.0 | 1039 | 11.8 |
| Entitlement | 1112 | 55.4 | 1306 | 56.1 | 1690 | 58.1 | 4116 | 53.3 | 3269 | 51.7 | 5144 | 58.4 |
| Ext post WSIB dec deadline | 0 | 0.0 | 0 | 0.0 | 0 | 0.0 | 11 | 0.1 | 144 | 2.3 | 684 | 7.8 |
| Reinstatement | 57 | 2.8 | 55 | 2.4 | 45 | 1.5 | 36 | 0.5 | 17 | 0.3 | 20 | 0.2 |
| Vocational Rehabilitation ** | 65 | <u>3.2</u> | 82 | <u>3.5</u> | 102 | <u>3.5</u> | 94 | <u>1.2</u> | 106 | <u>1.7</u> | 78 | <u>0.9</u> |
| Total Entitlement-related | 1389 | 69.2 | 1655 | 71.2 | 2331 | 80.2 | 7184 | 93.0 | 5907 | 93.4 | 8480 | 96.3 |
| Jurisdiction | 43 | 2.1 | 111 | 4.8 | 108 | 3.7 | 219 | 2.8 | 121 | 1.9 | 81 | 0.9 |
| Total | 2008 | | 2326 | | 2908 | | 7727 | | 6327 | | 8810 | |

NOTE:
This chart excludes post decision figures. The post decision components of workload (requests for reconsiderations, Ombudsman complaints and judicial reviews) are summarized in Charts 16, 17 and 18.

* This category represents appeals related to non-economic loss and future economic loss pension criteria introduced by Bill 162.

** This category represents appeals related to the increased vocational rehabilitation requirements introduced by Bill 162.

CHART 9
Appeal Dispositions by Type, Historical Comparison

| | 1994 | | 1995 | | 1996 | | 1997 | | 1998 | | 1999 | | 2000 | |
|------------------------|------|-------|------|-------|------|-------|------|-------|------|-------|------|-------|------|-------|
| <u>Pre-Hearing</u> | | | | | | | | | | | | | | |
| Withdrawn by Applicant | 649 | 38.2% | 640 | 31.8% | 742 | 31.3% | 706 | 27.9% | 1080 | 13.7% | 624 | 9.6% | 724 | 8.2% |
| Settled at Tribunal | 15 | 0.9% | 13 | 0.6% | 9 | 0.4% | 9 | 0.4% | 15 | 0.2% | 5 | 0.1% | 3 | 0.0% |
| Made Inactive | 0 | 0.0% | 0 | 0.0% | 0 | 0.0% | 46 | 1.8% | 4235 | 53.8% | 2980 | 46.1% | 3832 | 43.5% |
| No Reply | 93 | 5.5% | 198 | 9.8% | 183 | 7.7% | 161 | 6.4% | 121 | 1.5% | 177 | 2.7% | 62 | 0.7% |
| Other | 115 | 6.8% | 63 | 3.1% | 203 | 0.0% | 131 | 0.0% | 613 | 0.0% | 362 | 5.6% | 250 | 2.8% |
| <u>Hearing</u> | | | | | | | | | | | | | | |
| Withdrawn by Applicant | 11 | 0.6% | 19 | 0.9% | 16 | 0.7% | 21 | 0.8% | 2 | 0.0% | 14 | 0.2% | 9 | 0.1% |
| Made Inactive | 0 | 0.0% | 0 | 0.0% | 0 | 0.0% | 26 | 1.0% | 132 | 1.7% | 201 | 3.1% | 253 | 2.9% |
| Decision Issued | 812 | 47.8% | 1077 | 53.5% | 1215 | 51.2% | 1429 | 56.4% | 1674 | 21.3% | 2107 | 32.6% | 3676 | 41.7% |
| No Reply | 0 | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 | 0.0% |
| Other | 2 | 0.1% | 4 | 0.2% | 3 | 0.1% | 4 | 0.2% | 1 | 0.0% | 1 | 0.0% | 1 | 0.0% |

NOTE: This chart excludes post-decision figures. The post-decision components of workload (requests for reconsiderations, Ombudsman complaints and judicial reviews) are summarized in Charts 16, 17 and 18.

CHART 10
Case Dispositions in 2000
(by Processing Stage and Appeal Category)

| DISPOSITION STAGE | Access, Medical Exam and Leave | Right to Sue | Entitlement | Total |
|---|--------------------------------------|-----------------|-------------|-------------|
| Before Hearing | | | | |
| Withdrawn by Applicant | 157 | 7 | 560 | 724 |
| Settled at Tribunal | 0 | 3 | 0 | 3 |
| Made Inactive or No Reply | 2 | 0 | 3830 | 3832 |
| Found Non Jurisdictional | 0 | 0 | 62 | 62 |
| Other | 16 | 0 | 234 | 250 |
| Subtotal | 175 | 10 | 4686 | 4871 |
| Per cent of Appeal Total | 84.5% | 23.8% | 54.7% | 55.3% |
| After Hearing | | | | |
| Withdrawn by Applicant without Decision | 0 | 1 | 8 | 9 |
| Made Inactive or No Reply | 0 | 2 | 251 | 253 |
| Disposed Of following Tribunal Decision | 32 | 28 | 3616 | 3676 |
| Other | 0 | 1 | 0 | 1 |
| Subtotal | 32 | 32 | 3875 | 3939 |
| Per cent of Appeal Total | 15.5% | 76.2% | 45.3% | 44.7% |
| TOTAL | 207 | 42 | 8561 | 8810 |

NOTE:

This chart excludes post-decision figures. The post-decision components of workload (requests for reconsiderations, Ombudsman complaints and judicial reviews) are summarized in Charts 16, 17 and 18.

CHART 11
Case Disposition by Age, 2000
From Date Appeal Started to Disposition Date*

| Percentage of Case Disposition by Age in 2000 | | | | | | | | | |
|---|--------------------|--------------|----------------------------|--------------|-----------------------------|--------------|------------------------|--------------|-------------------------|
| Appeal Type | Within 6 Months | | Between 6 and 12 Months | | Between 12 and 18 Months | | More than 18 Months | | Appeal Type Total |
| Medical Exam & Access | 195 | 98% | 3 | 2% | 1 | 1% | 0 | 0% | 199 |
| Right to Sue | 9 | 21% | 16 | 38% | 10 | 24% | 7 | 17% | 42 |
| Entitlement** & Leave | 2596 | 30% | 1443 | 17% | 1615 | 19% | 2915 | 34% | 8569 |
| Total | 2800 | 31.8% | 1462 | 16.6% | 1626 | 18.5% | 2922 | 33.2% | 8810 |

NOTE:
This chart excludes post decision figures. The post decision components of workload (requests for reconsiderations, Ombudsman complaints and judicial reviews) are summarized in Charts 16, 17 and 18.

* Disposition date could be either date of file closure or date appeal made inactive.

** The Entitlement appeal category also includes leave applications, reinstatement appeals, vocational rehabilitation appeals, employer assessments, pension appeals, commutation appeals, wage loss appeals and appeals deemed to be jurisdiction issues.

CHART 12
Remaining Caseload Inventory, 2000

| | | Total Remaining Active Appeals |
|-----------------------|---------------|---|
| First Quarter | Anticipated | 8,092 |
| | <u>Actual</u> | <u>7,646</u> |
| | Variance | -446 |
| Second Quarter | Anticipated | 7,247 |
| | <u>Actual</u> | <u>6,975</u> |
| | Variance | -272 |
| Third Quarter | Anticipated | 6,602 |
| | <u>Actual</u> | <u>6,533</u> |
| | Variance | -69 |
| Fourth Quarter | Anticipated | 5,757 |
| | <u>Actual</u> | <u>5,690</u> |
| | Variance | -67 |

NOTE: This chart excludes post-decision figures. The post-decision components of workload (requests for reconsiderations, Ombudsman complaints and judicial reviews) are summarized in Charts 16, 17 and 18.

CHART 13
Distribution of Active Cases in Inventory
(as at December 31, 2000)

| | | Per Cent of Total |
|------------------------------------|-------------|----------------------|
| INITIAL PREPARATION STAGE | 1180 | 21% |
| Cases at Initial Preparation Stage | 922 | 16% |
| Early Review | 258 | 5% |
| PRE-HEARING PROCESS STAGE | 3092 | 54% |
| TCO* Pre-hearing work | 1159 | 20% |
| Scheduling (or rescheduling) | 216 | 4% |
| Awaiting Hearing at WSIAT | 1717 | 30% |
| POST-HEARING STAGE | 1359 | 24% |
| TCO* or OCC** Follow-up | 470 | 8% |
| WSIAT Decision-writing | 860 | 15% |
| Decisions Released | 29 | 1% |
| CLOSING PROCESS STAGE | 59 | 1% |
| TOTAL | 5690 | 100% |

NOTES: This chart excludes post-decision figures. The post-decision components of workload (requests for reconsiderations, Ombudsman complaints and judicial reviews) are summarized in Charts 16, 17 and 18.
Only Entitlement-related and Special Section cases were included to measure the level of active cases remaining in inventory.

* TCO refers to the Tribunal Counsel Office.
** OCC refers to the Office of Counsel to the Chair.

CHART 14
Scheduling, Hearings and Decisions

| | 1994 | | 1995 | | 1996 | | 1997 | |
|-------------------------------|------|----------------------------------|------|----------------------------------|------|----------------------------------|----------------------------|----------------------------------|
| | No. | <u>Change from</u> prior year | No. | <u>Change from</u> prior year | No. | <u>Change from</u> prior year | No. | <u>Change from</u> prior year |
| Scheduling Dates Arranged | 1697 | | 1591 | -6% | 2032 | 28% | 2403 | 18% |
| Hearings Conducted | 1415 | | 1332 | -6% | 1563 | 17% | 2066 | 32% |
| Cases Heard | 1299 | | 1223 | -6% | 1449 | 18% | 1942 | 34% |
| Decisions Issued | 1031 | | 1403 | 36% | 1460 | 4% | 1734 | 19% |
| Case Dispositions by Decision | 862 | | 1148 | 33% | 1302 | 13% | 1524 | 17% |
| | 1998 | | 1999 | | 2000 | | | |
| | No. | <u>Change from</u> prior year | No. | <u>Change from</u> prior year | No. | <u>Change from</u> prior year | <u>Change from</u> 1994 | |
| Scheduling Dates Arranged | 3051 | 27% | 3211 | 5% | 5307 | 65% | 213% | |
| Hearings Conducted | 2634 | 27% | 3009 | 14% | 4385 | 46% | 210% | |
| Cases Heard | 2481 | 28% | 2848 | 15% | 4151 | 46% | 220% | |
| Decisions Issued | 2392 | 38% | 2860 | 20% | 3946 | 38% | 283% | |
| Case Dispositions by Decision | 1788 | 17% | 2260 | 26% | 3839 | 70% | 345% | |

NOTE: This chart excludes post-decision figures. The post-decision components of workload (requests for reconsiderations, Ombudsman complaints and judicial reviews) are summarized in Charts 16, 17 and 18.

CHART 15
Decisions Issued in 2000

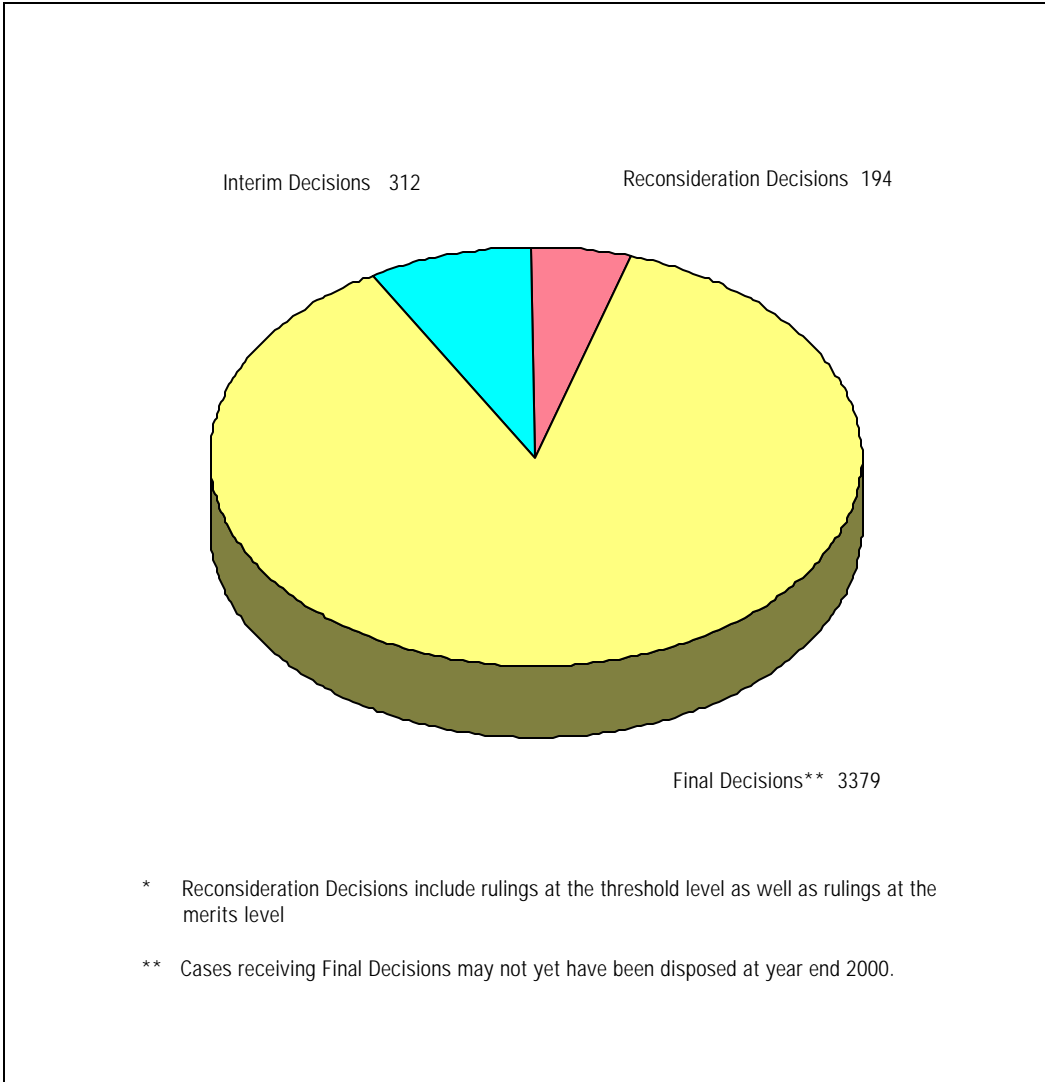


CHART 16
*Ombudsman Complaints, Activity and
 Inventory Summary, 2000*

| | Year-end 2000 |
|--------------------------------------|---------------|
| New Complaint Notifications Received | 30 |
| Complaints Resolved | 23 |
| Complaints Remaining | 23 |

CHART 17
*Reconsideration Requests, Activity and
 Inventory Summary, 2000*

| | Year-end 2000 |
|-----------------------------------|---------------|
| Reconsideration Requests Received | 393 |
| Reconsideration Requests Resolved | 286 |
| Reconsideration Remaining | 277 |

CHART 18
*Judicial Reviews, Activity and
 Inventory Summary, 2000*

| | Year-end 2000 |
|----------------------------|---------------|
| Judicial Reviews Initiated | 1 |
| Judicial Reviews Completed | 6 |
| Judicial Reviews Remaining | 1 |

CHART 19
FIPPA Activity Summary, 2000

| | Year-end 2000 |
|----------------------------|---------------|
| FIPPA Requests Received | 3 |
| FIPPA Requests Completed | 3 |
| Information Sent/Disclosed | 3 |
| Transfers | 0 |
| Appeals | 2 |

CHART 20
MLO Referrals, 2000

| | Year-end 2000 |
|---------------------------------------|---------------|
| <u>MLO Referrals Completed</u> | |
| In support of pre-hearing activities | 167 |
| In support of post-hearing activities | 161 |

CHART 21
Statement of Expenditures and Variances

| Workplace Safety and Insurance Appeals Tribunal Statement of Expenditures and Variances Year ended December 31, 2000 (In \$000's) | | | | |
|---|----------------|----------------|------------------|------------|
| | 2000 BUDGET | 2000 ACTUAL | 2000 VARIANCE | \$ |
| Salaries & Wages | 9,799 | 9,173 | 626 | 6.4 |
| Employee Benefits | 1,817 | 1,689 | 128 | 7.0 |
| Transportation & Communication | 1,043 | 1,111 | (68) | (6.5) |
| Services | 8,217 | 7,140 | 1,077 | 13.1 |
| Supplies & Equipment | 879 | 858 | 21 | 2.4 |
| TOTAL - W.S.I.A.T. | 21,755 | 19,971 | 1,784 | 8.2 |
| Services - W.S.I.B. | 720 | 777 | (57) | (7.9) |
| TOTAL OPERATING EXPENDITURES | 22,475 | 20,748 | 1,727 | 7.7 |
| Capital Expenditures | 470 | 1,322 | (852) | — |
| TOTAL EXPENDITURES | 22,945 | 22,070 | 875 | 3.8 |
| Less: Interest Revenue | — | (55) | 55 | — |
| TOTAL | 22,945 | 22,015 | 930 | 4.1 |

Appendix A

VICE-CHAIRS AND MEMBERS IN 2000

This is a list of Vice-Chairs and Members whose Order-in-Council appointments were active at the end of the reporting period.

Full-time

Chair

Strachan, Ian J.

Vice-Chairs

Ballam, Dianne
Dechert, Ken
Gehrke, Linda
Keil, Martha
Martel, Sophie

McCombie, Nick
McCutcheon, Rosemarie
Moore, John
Smith, Eleanor
Sutherland, Sara

Members representative of workers

Crocker, James
Grande, Angela

Jackson, Faith
Tzaferis, Mary

Members representative of employers

Barbeau, Pauline
Copeland, Susan

Cremiso, Angelo
Meslin, Martin

Part-time

Vice-Chairs

Alexander, Bruce
Alexander, Judith
Baltman, Deena
Bayefsky, Eban
Bigras, Jean Guy
Bowles, Patrick

Butler, Michael
Caddigan, Beverley
Carroll, Tom
Cook, Brian
Crystal, Melvin
Eagan, Michael

Farago, Michael
Farrer, Jennifer Bradley
Faubert, Marsha
Ferdinand, Ulrich
Flanagan, William
Fleming, David
Hartman, Ruth
Henderson, Loretta
Jordan, Leo
Josefo, Jay
Kenny, Maureen
Koch, Karen
Koutoulakis, John
Kroeker, Lawrence
Libman, Peter
Loewen, Brian
Makepeace, Nancy
Marafioti, Victor

McGrath, Joy
McIntosh-Janis, Faye
McMahon, Gary
Mole, Ellen
Morrison, Gail
Nairn, Rob
Newman, Elaine
Onen, Zeynep
Purdy, David
Renault, Audrey
Robeson, Virginia
Ryan, Sean
Sajtos, Joanne
Sandomirsky, Janice
Signoroni, Antonio
Silipo, Tony
Zimmerman, Geoffrey

Members representative of workers

Anderson, James
Beattie, David
Besner, Diane
Felice, Douglas
Ferrari, Mary

Klym, Peter
Lebert, Ray
Rao, Fortunato
Robillard, Maurice
Timms, David

Members representative of employers

Bullivant, Mardi
Donaldson, Joseph
Fay, Carole Ann
Howes, Gerald
Jago, Douglas
Nipshagen, Gerry

Robb, C. James
Sanscartier, Robert
Séguin, Jacques
Sherwood, Robert
Wheeler, Brian
Young, Barbara

CHAIR, VICE-CHAIRS AND MEMBERS – REAPPOINTMENTS IN 2000

| | Effective |
|----------------------|--------------------------------|
| Dianne Ballam | July 28, 2000 |
| David Beattie | December 11, 2000 |
| Jean Guy Bigras | July 1, 2000 |
| Brian Cook | September 6, 2000 |
| Angelo Cremisio | December 13, 2000 ¹ |
| Kenneth Dechert | August 5, 2000 |
| Marsha Faubert | July 1, 2000 |
| William Flanagan | June 1, 2000 |
| Doug Jago | January 7, 2000 |
| Martha Keil | February 15, 2000 |
| Maureen Kenny | July 1, 2000 |
| Lawrence Kroeker | July 7, 2000 |
| Victor Marafioti | July 1, 2000 |
| Sophie Martel | June 7, 2000 ² |
| Nick McCombie | July 1, 2000 |
| Rosemarie McCutcheon | June 7, 2000 ³ |
| Joy McGrath | July 1, 2000 |
| John Moore | May 1, 2000 |
| Zeynep Onen | October 1, 2000 |
| Jim Robb | July 1, 2000 |
| Virginia Robeson | July 1, 2000 |
| Joanne Sajtos | May 28, 2000 |
| Antonio Signoroni | October 1, 2000 |
| Ian Strachan | July 1, 2000 |
| Sara Sutherland | September 6, 2000 |

1 conversion of May 3, 2000 Member appointment from part-time to full-time

2 conversion of October 6, 1999 Vice-Chair appointment from part-time to full-time

3 conversion of October 6, 1999 Vice-Chair appointment from part-time to full-time

NEW APPOINTMENTS DURING 2000

Effective

Full-time

Vice-Chair

Eleanor Smith February 1, 2000

Members representative of workers

Angela Grande January 7, 2000

Part-time

Vice-Chairs

| | |
|-------------------|-------------------|
| David Fleming | January 7, 2000 |
| Deena Baltman | February 16, 2000 |
| Beverley Caddigan | February 16, 2000 |
| Bruce Alexander | May 3, 2000 |
| Patrick Bowles | May 3, 2000 |
| Melvin Crystal | May 3, 2000 |
| Gary McMahon | May 3, 2000 |
| John Koutoulakis | October 4, 2000 |
| David Purdy | October 4, 2000 |

Members representative of employers

| | |
|-----------------|------------------------------|
| Brian Wheeler | January 7, 2000 ⁴ |
| Bob Sherwood | May 3, 2000 |
| Angelo Cremisio | May 3, 2000 |

⁴ appointed part-time Vice-Chair this date; OIC converted to part-time Member on April 19, 2000

SENIOR STAFF

| | |
|------------------|---|
| David Bestvater | Director, Case Management Systems |
| Debra Dileo | Assistant Registrar, Office of the Vice-Chair Registrar |
| Noel Fernandes | Manager, Finance ⁵ |
| Janet Geisberger | Director, Human Resources & Labour Relations |
| Bob Glass | Director, Administrative Services |
| Martha Keil | Vice-Chair Registrar, Office of the Vice-Chair Registrar |
| Zeynep Onen | Executive Director |
| Janet Oulton | Appeals Administrator |
| Carole Prest | Counsel to the Tribunal Chair |
| Dan Revington | Tribunal General Counsel ⁶ |
| Miriam Weinfeld | Manager, Alternative Dispute Resolution |

MEDICAL COUNSELLORS

The following is a list of the Tribunal's Medical Counsellors.

| | |
|-------------------------|---------------------|
| Dr. John Duff | General Surgery |
| Dr. Ross Fleming | Neurosurgery |
| Dr. Wilfred Goodman | Otolaryngology |
| Dr. Gordon A. Hunter | Orthopaedic Surgery |
| Dr. Emmanuel Persad | Psychiatry |
| Dr. John S. Speakman | Ophthalmology |
| Dr. Anthony L. Weinberg | Internal Medicine |

5 Peter Taylor, Manager of Finance since the Tribunal's inception, retired at the end of May 2000 and Noel Fernandes was contracted to replace him.

6 Dan Revington took on the role of General Counsel in early 2000, when Eleanor Smith was appointed a full-time Vice-Chair.

WORKPLACE SAFETY AND INSURANCE APPEALS TRIBUNAL

Balance Sheet

December 31, 2000

| | 2000 | 1999 |
|---|---------------------|---------------------|
| ASSETS | | |
| Cash | \$ 2,141,337 | \$ - |
| Receivable from Workplace Safety and Insurance Board | 1,444,658 | 3,723,765 |
| Recoverable expenses (Note 3) | 349,002 | 320,617 |
| Advances | 9,699 | 10,837 |
| | \$ 3,944,696 | \$ 4,055,219 |
| LIABILITIES | | |
| Bank overdraft | \$ - | \$ 354,438 |
| Accounts payable and accrued liabilities | 2,544,696 | 2,300,781 |
| Operating advance from Workplace Safety and Insurance Board (Note 4) | 1,400,000 | 1,400,000 |
| | \$ 3,944,696 | \$ 4,055,219 |

APPROVED ON BEHALF OF THE WORKPLACE
SAFETY AND INSURANCE APPEALS TRIBUNAL

(signed) *I. J. Strachan, Chairman*

**WORKPLACE SAFETY AND INSURANCE
APPEALS TRIBUNAL
Statement of Operations
Year ended December 31, 2000**

| | <u>2000</u> | <u>1999</u> |
|--|-------------------|--------------|
| OPERATING EXPENSES | | |
| Salaries and wages | \$ 9,172,792 | \$ 7,720,251 |
| Employee benefits | 1,689,031 | 1,202,807 |
| Transportation and communication | 1,110,871 | 857,864 |
| Services | 7,140,349 | 5,003,763 |
| Supplies and equipment | 857,922 | 375,598 |
| | <u>19,970,965</u> | 15,160,283 |
| Services - Workplace Safety and Insurance Board (Note 5) | 776,728 | 561,944 |
| TOTAL OPERATING EXPENSES | <u>20,747,693</u> | 15,722,227 |
| CAPITAL EXPENSES | <u>1,322,350</u> | 68,611 |
| TOTAL EXPENSES | <u>22,070,043</u> | 15,790,838 |
| LESS: BANK INTEREST INCOME | <u>(55,385)</u> | (27,841) |
| NET RECOVERABLE EXPENDITURES | <u>22,014,658</u> | 15,762,997 |
| FUNDING REVENUE | <u>22,014,658</u> | 15,762,997 |
| NET RESULT FOR THE YEAR | <u>\$ -</u> | <u>\$ -</u> |

**WORKPLACE SAFETY AND INSURANCE
APPEALS TRIBUNAL
Statement of Cash Flows
Year ended December 31, 2000**

| | <u>2000</u> | <u>1999</u> |
|--|---------------------|---------------------|
| NET INFLOW (OUTFLOW) OF CASH RELATED TO | | |
| OPERATING ACTIVITIES | | |
| Funding revenue received from Workplace Safety and Insurance Board | \$ 24,293,765 | \$ 15,563,719 |
| Cash receipts for recovery of shared services | 440,900 | 37,893 |
| Bank interest received | 55,385 | 27,841 |
| Expenses and net advances | (22,294,275) | (15,649,531) |
| NET CASH FLOW FROM OPERATING ACTIVITIES DURING THE YEAR | 2,495,775 | (20,078) |
| CASH AND CASH EQUIVALENTS, BEGINNING OF YEAR | (354,438) | (334,360) |
| CASH AND CASH EQUIVALENTS, END OF YEAR | \$ 2,141,337 | \$ (354,438) |

NOTES TO THE FINANCIAL STATEMENTS

December 31, 2000

1. GENERAL

The Workplace Safety and Insurance Appeals Tribunal (the "Tribunal") was originally created by the Workers' Compensation Amendment Act S.O. 1984, Chapter 58 - Section 32, which came into force on October 1, 1985.

The purpose of the Tribunal is to hear, determine and dispose of in a fair, impartial and independent manner, appeals by workers and employers in connection with decisions, orders or rulings of the Workplace Safety and Insurance Board (formerly Workers' Compensation Board), and any matters or issues expressly conferred upon the Tribunal by the Act.

2. SIGNIFICANT ACCOUNTING POLICIES

The Tribunal's financial statements are prepared in accordance with Canadian generally accepted accounting principles.

Capital expenses

Capital expenses are recognized on a cash basis to match the recovery of the costs (funding revenue).

Revenue and expenses

Revenue and expenses are recognized on an accrual basis.

3. RECOVERABLE EXPENSES

Recoverable expenses consist of amounts recoverable from Pay Equity Hearing Tribunal, Ontario Labour Relations Board and Board of Inquiry for shared services such as reception, library, mailing, courier and photocopy expenses.

4. OPERATING ADVANCE FROM WORKPLACE SAFETY AND INSURANCE BOARD

The operating advance is interest-free with no specific terms of repayment.

5. SERVICES – WORKPLACE SAFETY AND INSURANCE BOARD (WSIB)

The expense represents administrative costs for processing claim files of the WSIB which are under appeal at the Tribunal. The comparative figure has been re-classified to conform with the current year presentation.

6. SUBSEQUENT EVENT

On February 27, 2001 a news release by the Ministry of Labour, Government of Ontario announced the government's proposal to merge a number of agencies and tribunals.

Under this proposal, the Workplace Safety and Insurance Appeals Tribunal (together with certain other agencies/tribunals) may be merged into a unified tribunal. The merger plans have not yet been finalized.