



The Council of Canadian Administrative Tribunals 31st Annual Symposium

May 24-26, 2015
Delta Beauséjour, Moncton

Putting Access to Justice into Practice

PROGRAM

Symposium Co-Chairs:

Paul D'Astous, *Chairman and CEO*,
New Brunswick Insurance Board

Marie-France Pelletier,
Chief Administrator, Administrative
Tribunals Support Service of Canada



Council of Canadian
Administrative Tribunals
Conseil des tribunaux
administratifs canadiens



FROM THE MAYOR

On behalf of City Council and the citizens of Moncton, it is my pleasure to welcome everyone to the 31st annual Symposium of the Council of Canadian Administrative Tribunals.

We trust that you will take this opportunity to enjoy not only the conference, but also the many features Moncton has to offer.

I hope that this year's conference proves to be one of the best to date. I am pleased that you are taking this chance to experience Moncton's warm hospitality and I hope you will enjoy your stay in our city!



George LeBlanc, *Mayor*
City of Moncton

The Council of Canadian Administrative Tribunals wishes to thank the Sponsors and Supporters of the 31st Annual Symposium.



MCIS Language Services offers clients the highest quality, most responsive and cost effective solutions to meet all of your language needs (English & French to/from over 200+ languages, including ASL/LSQ & Aboriginal languages). We also offer free professional interpretation services to eligible victims & agencies.



Decisia is an intuitive software to self organize and search the tribunals case law. It has a unique search engine that will help reduce cost by saving time for board members, paralegal staff and counsels when searching inside the decision text and with labelled metadata. It can even allow you to pick decisions to publish on the tribunals website instantaneously, which will help self represented litigants, witnesses and the public conduct basic legal research.

SUNDAY, MAY 24, 2015

9:00 – 11:00 MEETING OF CCAT BOARD (SHEDIACA)

10:00 – 5:00 REGISTRATION

11:30 – 12:30 LUNCHEON & NETWORKING

12:30 – 12:45 WELCOME & OPENING REMARKS (BALLROOM A)

Speakers: Guy Giguère, Chair, CCAT
Conference Co-Chairs:
Marie-France Pelletier and Paul D'Astous

12:45 – 1:15 KEYNOTE ADDRESS: ACCESS TO JUSTICE

Speaker: Hon. Thomas Albert Cromwell, SCC
Moderator: Guy Giguère

Hon. Thomas Albert Cromwell, SCC ▶
(photography by: Philippe Landreville)



1:15 – 2:30 PLENARY A: PRINCIPLES AND APPROACHES TO ACCESS TO JUSTICE

Speakers: Richard Francis, 3rd year student, Faculty of Law, University of Ottawa;
Ms. Kathryn Thomson, Ph.D. candidate, Faculty of Law, University of Victoria;
Prof. Michelle Flaherty, Faculty of Law, University of Ottawa

Moderator: Don Buckingham, Chair, Canada Agricultural Review Tribunal

Description: Certain populations, including persons with disabilities, continue to face difficulties and barriers to accessing justice. Key principles of accessibility include “universal design” (it is more efficient, cheaper, and universal to build accessibility into new structures, rather than adding it in later), “knowledge technologies” (how technology can be used to improve access for certain populations), and “active adjudication” (how administrative decision-makers can have a role in improving access to justice). Panelists will explore these principles in a practical way that contributes to both the goals of access to justice and accessibility at administrative tribunals.

2:30 – 3:00 **REFRESHMENTS & NETWORKING**

3:00 – 4:30 **SIMULTANEOUS ROUNDTABLE SESSIONS**

Roundtable 1: Labour / Employment (SHEDIAC B)

Speakers: **Douglas Ruck**, *Chair NS Labour Board*; **Ginette Brazeau**, *Chair of the Canada Industrial Relations Board*; **Bruce Hollett**, *Chair and CEO of the NL Public Service Commission*

Moderator: **Virginia Adamson**, *Executive Director and General Counsel Public Service Labour Relations and Employment Board Secretariat, Administrative Tribunals Support Service Canada*

Description: Increasingly, labour and employment boards have expanded mandates, exercising jurisdiction over a wide range of matters. This raises many questions. Are there benefits and drawbacks to this, considering administrative law issues, such as access to justice, independence, impartiality and neutrality? Are there potential conflicts of interest with an expanded mandate? What role should representational boards play, given the expanded mandate of many labour and employment boards and how do non-tripartite boards compare to tripartite bodies in providing access to justice?

Roundtable 2: Self-represented or vulnerable parties (BALLROOM C)

Speakers: **Don Buckingham**, *Chair Canada Agricultural Review Tribunal*;
Charles Murray, *Ombudsman for the Province of NB*

Moderator: **Marie-France Pelletier**, *Chief Administrator, Administrative Tribunals Support Service of Canada*

Description: Administrative tribunals are meant to be more accessible and less daunting than formal court proceedings. In many cases, participants can and do represent themselves throughout the proceedings whether these are done through an investigative process, file reviews or in-person hearings. How do administrative tribunals ensure their processes are fair and accessible to those who appear before them, when these individuals come from all walks of life? Participants will have an opportunity to share best practices.

Roundtable 3: “High Volume” Administrative Tribunals (BALLROOM B)

Speakers: Laura Kell, lawyer, *Veterans Review and Appeal Board*;
Jean-François Clément, *Juge administratif, Équipe de relève Commission des lésions professionnelles*; Murielle Brazeau, *Chair, Social Security Tribunal of Canada*

Moderator: Kelly J. Serbu, *Adjudicator, Indian residential Schools Adjudication Secretariat*

Description: There are hundreds of Provincial and Federal “high volume” administrative tribunals that adjudicate a wide range of issues affecting the rights, interests and privileges of Canadians. Their common denominator is an expectation they will complete a significant number of cases and reduce processing time and costs. In this session, participants will discuss some of their best practices to ensure efficiency, predictability and consistency of the process leading to decisions.

Roundtable 4: Workers’ Compensation tribunals (SHEDIAC)

Speakers: Karen Smith, *C. Director, Saskatchewan Workers’ Compensation Board*;
Marg Romanow, *Saskatchewan Workers’ Compensation Board*

The group will be exploring how each tribunal handles various processes and share things in common. They will address new developments and back log issues. In addition they will begin discussions about key statistical measures.

5:30 – 8:30 CCAT CHAIR’S RECEPTION (MEZZANINE)

Hosts: Guy Giguère, *Chair of CCAT and the CCAT Board of Directors*

MONDAY, MAY 25, 2015

8:00 – 9:00 **REGISTRATION / BREAKFAST**

9:00 – 10:15 **PLENARY B: CHARTING THE CHARTER (BALLROOM A)**

Speakers: **Nicolas Lambert**, *Faculty of Law, U of Moncton*; **Kenneth LeBlanc**, *Chief Worker's Advisor, NS*; **Brad Proctor**, *Labour and Employment Lawyer, McInnis Cooper*; **Robert McKenzie**, *graduate student, University of Montreal*

Moderator: **Andrea Smillie**, *Appeals Commissioner, Workers' Compensation Appeals Tribunal Nova Scotia*

Description: The panel will explore various aspects of how an administrative tribunal is expected to deal with charter challenges including: the effect of judicial precedent; charter remedies; tactics used by claimants making a charter challenge and what type of analysis is appropriate.

10:15 – 10:30 **PRESENTATION OF CCAT MEDAL**

10:30 – 10:45 **REFRESHMENTS & NETWORKING**

10:45 – 12:15 **SIMULTANEOUS WORKSHOPS**

Workshop 1: Access to justice – Self Represented Parties and Effective Hearings (BALLROOM B)

Speakers: **Gary Yee**, *Associate Chair, Licensing Appeal Tribunal -SLASTO*;
Taivi Lobu, *Vice Chair, Health Professions and Health Services Appeal and Review Boards*

Moderators: **Andrea Smillie**, *Appeal Commissioner, Workers' Compensation Appeals Tribunal Nova Scotia* and **Athanasios Hadjjs**, *Senior Counsel, Public Service labour Relations and Employment Board Secretariat of the Administrative Tribunals Support Service of Canada*

Description: Adjudicators are faced with a range of challenging situations in running fair and effective hearings when a party is not represented. What is an adjudicator's duty in these situations? What adjudicative practices and approaches can lead to effective results? What does assisted adjudication mean in practice? How does it differ from active adjudication? This hands-on workshop will set forth judicial principles regarding self-represented parties and look at current trends and practices. Scenarios involving self-represented parties will be addressed by workshop participants – eliciting best practices for tribunals in this evolving field.

Workshop 2: May the best mediator win! (SHEDIAC C)

Speakers: Marie Charest, *Juge administratif, Tribunal administrative du Québec*; Brian Sharp, *Nova Scotia Labour Board*; Nathalie Auger *Acting Director, Dispute Resolution Services – Staffing, Public Service Labour Relations and Employment Board, Administrative Tribunals Support Service of Canada*

Moderator: Christian Michaud, *Partner, Cox and Palmer*

Description: Administrative tribunals doing conciliation, mediation or settlement conferences use either their administrative judges, some of their employees or a combination of both, to that end. What are the advantages and disadvantages of each of these options? An interesting debate ahead!

Workshop 3: Alternative means for conducting hearings (BALLROOM C)

Speakers: Noel Millea, *Mi'kmaq Elder*; Natasha Crooks, *Board member and Chair of the Aboriginal Circle, Parole Board of Canada*; Kelly J. Serbu, *Adjudicator, Indian Residential Schools Adjudication Secretariat*

Moderator: Kelly J. Serbu, *Adjudicator, Indian Residential Schools Adjudication Secretariat*

Description: Certain tribunals have adapted their processes to meet the needs of specific groups and to foster a better access to justice by being respectful of cultural practices or to accommodate gaps in literacy. The goal is to ensure the tribunal gathers the best information or evidence possible with which to adjudicate the case before them. This workshop will provide an overview of methods used by two tribunals when dealing with Aboriginal clients, such as the use of Elder-Assisted Hearings or the use of story boards or other alternate means to hear evidence.

12:15 – 1:15 LUNCH (BALLROOM A)

Guest Speaker: Hon. Chief Justice B. Richard Bell, *Chief Justice Court Martial Appeal Court of Canada*
From Practice to the Bench: A Reflection on Changing Perspectives on Administrative Law

Moderator: Don Buckingham, *Chair, Canada Agricultural Review Tribunal*

Description: A personal reflection on the journey over the past decade and developments in administrative law through evolving and different roles as senior litigator, trial court judge, and appellate court judge in New Brunswick.

1:15 – 1:45 ANNUAL GENERAL MEETING (BALLROOM A)

1:45 – 3:00 **PLENARY C: MEASURING ACCESS TO JUSTICE –
THE CCAT- AJC’S NATIONAL SURVEY AND BEYOND.**

(BALLROOM A)

Speakers: **Lilian Ma**, Associate Chair, *Landlord and Tenant Board, SJTO*; Alternate Executive Chair, *SJTO, Ontario*; **Karen Smith**, C. Director, *Saskatchewan Workers’ Compensation Board*

Moderator: **Athanasios Hadjis**, *Senior Counsel, Public Service labour Relations and Employment Board Secretariat of the Administrative Tribunals Support Service of Canada*

Description: The results for the cross-Canada Survey on access to justice for self-represented litigants will be presented in this session. Survey methodology and data analytics aside, how can we use this information to improve our performance through strategic planning and development? Can the survey become a living document to help us to be more accountable? What other information we will need to give us a holistic measurement of access to justice for self-represented litigants in our community?

3:00 – 3:30 **REFRESHMENTS & NETWORKING**

3:30 – 5:00 **SIMULTANEOUS WORKSHOPS**

Workshop 1: Access to justice – Self Represented Parties and Effective Hearings (repeat) (BALLROOM B)

Speakers: **Gary Yee**, Associate Chair, *Licensing Appeal Tribunal -SLASTO*;
Taivi Lobu, Vice Chair, *Health Professions and Health Services Appeal and Review Boards*

Moderators: **Andrea Smillie**, *Appeal Commissioner, Workers’ Compensation Appeals Tribunal Nova Scotia*; **Athanasios Hadjis**, *Senior Counsel, Public Service labour Relations and Employment Board Secretariat of the Administrative Tribunals Support Service of Canada*

Description: Adjudicators are faced with a range of challenging situations in running fair and effective hearings when one party is not represented. How can adjudicators remain neutral while assisting an unrepresented party? What practices and approaches can lead to effective results? What does assisted adjudication mean in practice? This hands-on workshop will set forth judicial principles regarding self-represented parties and look at current trends and practices. Scenarios involving self-represented parties will be addressed by workshop participants – eliciting best practices for tribunals in this evolving field.

Workshop 2: May the best mediator win! (repeat) (SHEDIAC C)

Speakers: Marie Charest, *Tribunal administrative du Québec*; Natalie Auger, *Acting Director, Dispute Resolution Services, Staffing, Public Service Labour Relations and Employment Board, administrative Tribunals Support Service of Canada*

Moderators: Christian Michaud, *Partner, Cox and Palmer*

Description: Administrative tribunals doing conciliation, mediation or settlement conferences use either their administrative judges, some of their employees or a combination of both, to that end. What are the advantages and disadvantages of each of these options? An interesting debate ahead!

Workshop 3: Alternative means for conducting hearings (repeat) (BALLROOM C)

Speakers: Noel Millea, *Mi'kmaq Elder*; Natasha Crooks, *Board member and Chair of the Aboriginal Circle, Parole Board of Canada*; Kelly J. Serbu, *Adjudicator, Indian Residential Schools Adjudication Secretariat*

Moderator: Kelly J. Serbu, *Adjudicator, Indian Residential Schools Adjudication Secretariat*

Description: Certain tribunals have adapted their processes to meet the needs of specific groups and to foster a better access to justice by being respectful of cultural practices or to accommodate gaps in literacy. The goal is to ensure the tribunal gathers the best information or evidence possible with which to adjudicate the case before them. This workshop will provide an overview of methods used by two tribunals when dealing with Aboriginal clients, such as the use of Elder-Assisted Hearings or the use of story boards or other alternate means to hear evidence.

6:15 – 7:00 &
7:00 – 10:00

RECEPTION AND BANQUET (MONCTON FARMERS MARKET)

Hosts: Guy Giguère, *Chair of CCAT, and the CCAT Board*

Sit back, relax, and discover some North Shore Pulp fiction. Join us while we “take a break” with New Brunswick’s Lucien “Da nord shore millworker”!

Marshall Button ▶



TUESDAY, MAY 26, 2015

8:00 – 9:00 **REGISTRATION / BREAKFAST**

9:00 – 10:15 **PLENARY D: DEALING WITH DIFFICULT AND VEXATIOUS PARTIES
(BALLROOM A)**

Speakers: **Marcel Courtemanche**, *Psychologist and member of the Tribunal administrative du Québec*, **Ken Sandhu**, *Deputy Chairperson of the IRB (TBC)*

Moderator: **Guy Giguère**, *Chair, CCAT*

Description: Tribunals, like courts, must deal with difficult and vexatious litigants from time to time. They can impose a significant burden on the limited resources of tribunals and on other participants to tribunal proceedings. A tribunal hearing can escalate into a lengthy and costly process, and lead to subsequent court challenges. In this plenary session, our panel will share strategies for dealing with difficult and vexatious litigants while maintaining control of the hearing and ensuring that the process remains procedurally fair.

10:15 – 10:45 **REFRESHMENTS AND NETWORKING**

10:45 – 12:15 **SIMULTANEOUS WORKSHOPS**

**Workshop 4: How to Deal with Difficult Parties and Representatives
(BALLROOM B)**

Speaker: **Gary Dukeshire**, *Senior Counsel, Legal Services, Immigration and Refugee Board of Canada*

Moderator: **Marilyn McNamara**, *Chair, Employment and Assistance Appeal Tribunal, BC*

Description: Few issues are more challenging than dealing with difficult parties and/or representatives. Not only do they increase the complexity of the hearing process, but test the skills of the adjudicator who is often left feeling frustrated, stressed and tired. Following up on the lessons learned in the plenary session, this workshop will review the best practices and experiences of several boards and tribunals, analyzing what is happening in those exchanges and demonstrating the effectiveness of different strategies. Participants will have an opportunity to share their experience.

Workshop 5: Lessons in diversity (SHEDIAC C)

Speakers: Fo Niemi, *Executive Director, Center for Research-Action on Race Relations*; Douglas Ruck, *Chairperson, Nova Scotia Labour Board*; Gary Yee, *Associate Chair, Licensing Appeal Tribunal -SLASTO*

Moderator: Marie Charest, *Administrative Judge, Tribunal administrative du Québec*

Description: While Canada is an increasingly multicultural country, how have institutions been responsive to the needs and obstacles faced by individuals stemming from a multitude of cultural backgrounds? In this session, panel members will share their experiences on how to ensure consistency in processes, while also ensuring fairness for all those involved in these processes.

Workshop 6: Public accountability: the right to know (BALLROOM C)

Speaker: Thomas Jarmyn, *Deputy Chair, VRAB*

Moderator: Brent Taylor, *Deputy Chair, Veterans Review and Appeal Board*

Description: Access to justice is important when entering the realm of the tribunal, but it does not stop there. Tribunals have a duty to foster access to justice after the hearing by making their procedures and decisions as transparent as possible. This transparency may set up tension with a tribunal's companion responsibility to keep certain personal information private. How do we strike the balance between transparency, privacy, and publication; and in a Federal tribunal how do we ensure our obligations under the Official Languages Act are met when we publish our decisions? The Deputy Chair of the Veterans Review and Appeal Board will discuss the Board's journey from opaqueness to transparency.

12:15 – 1:15 LUNCH

1:15 – 1:30 CLOSING REMARKS AND THANKS;
VIDEO PRESENTATION FOR 2016 SYMPOSIUM
(BALLROOM A)

1:30 – 2:30 CCAT BOARD OF DIRECTORS' MEETING (BALLROOM A)

Accreditation

CCAT is pleased to inform participants that the Symposium has been accredited by certain law societies for Continuing Professional Development credits. Registrants who wish to receive confirmation of attendance are requested to submit their requests by e-mail after the Symposium to info@ccat-ctac.org

Evaluation Form

Participants' kits contain a Symposium Evaluation Form. Please complete this and deposit it in the box at the **reception** desk.

CCAT uses participants' comments and suggestions to continuously improve the quality of its annual Symposia, programs and services. Thank you!

Presentations by Speakers

The papers and presentations of speakers will not be reproduced but will be available on CCAT's website after the Symposium. However, only those papers authorized to be posted by their authors will be on the website.

2015 Symposium Planning Committee

The CCAT Board of Directors and Executive Committee extend their sincere appreciation to the following volunteers who gave generously of their time and effort to bring you this Symposium.

Symposium Organizing Committee Co-Chairs:

Marie-France Pelletier, *Chief Administrator, Administrative Tribunals Support Service of Canada*

Paul D'Astous, *Chairman and CEO, New Brunswick Insurance Board*

Committee Members:

Don Buckingham, *Chair, Canada Agricultural Review Tribunal*

Marie Charest, *Juge administrative, Tribunal administratif du Québec*

Philippe Dufresne, *Law Clerk and Parliamentary Counsel*

Dr. Gerald Heckman, *Associate Professor, Faculty of Law, University of Manitoba*

Marie Langlois, *Juge administrative coordonnatrice, Commission des lésions professionnelles*

Lillian Ma, *Associate Chair, Lanlord and Tenant Board, Social Justice Tribunals Ontario*

GENERAL INFORMATION

Douglas Ruck, *Chairperson,
Nova Scotia Labour Board*

Kelly J. Serbu, *Adjudicator, Indian Residential Schools
Adjudication Secretariat*

Andrea Smillie
*Appeal Commissioner, Workers' Compensation Appeals
Tribunal, Nova Scotia*

Karen Smith, *C. Director, Saskatchewan
Workers' Compensation Board*

Brent Taylor, *Deputy Chair, Veterans Review
and Appeal Board*

Ex officio: **Guy Giguère**, *Chair, CCAT*

For more information about CCAT, please contact:

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CCAT 31ST ANNUAL SYMPOSIUM TIMETABLE

Date	Event	Function Space
SUNDAY MAY 24TH		
8:00 – 5:00	Registration desk service*	Mezzanine
11:30 – 12:30	Luncheon & Networking	Mezzanine
12:30 – 12:45	Welcome & opening remarks	Ballroom A
12:45 – 1:15	Keynote Address: Access to Justice, Honourable Thomas Albert Cromwell	Ballroom A
1:15 – 2:30	Plenary A: Principles and Approaches to Access to Justice	Ballroom A
2:30 – 3:00	Refreshments & Networking	Mezzanine
3:00 – 4:30	Roundtable 1: Labour / Employment	Shediac B
	Roundtable 2: Self represented or Vulnerable Parties	Ballroom C
	Roundtable 3: High Volume Administrative Tribunals	Ballroom B
	Roundtable 4: Workers' Compensation Tribunals	Shediac C
5:30 – 8:00	CCAT Chair's Reception	Mezzanine
MONDAY MAY 25TH		
8:00 – 9:00	Registration / Breakfast	Mezzanine
9:00 – 10:15	Plenary B: Charting the Charter	Ballroom A
10:15 – 10:30	Presentation of the 2015 CCAT Medal	Ballroom A
10:30 – 10:45	Refreshments & Networking	
10:45 – 12:15	Workshop 1: Access to Justice – Self Represented Parties and Effective Hearings	Ballroom B
10:45 – 12:15	Workshop 2: May the Best Mediator Win	Shediac C
10:45 – 12:15	Workshop 3: Alternative Means for Conducting Hearings	Ballroom C
12:15 – 1:15	Luncheon with Guest Speaker: The Honourable Chief Justice B. Richard Bell	Ballroom A
1:15 – 1:45	Annual General Meeting	Ballroom A
1:45 – 3:00	Plenary C: Measuring access to Justice - The CCAT –AJC's National Survey and Beyond	Ballroom A
3:00 – 3:30	Refreshments & Networking	Mezzanine
3:30 – 5:00	Workshop 1: Access to Justice – Self Represented Parties and Effective Hearings	Ballroom B
	Workshop 2: May the Best Mediator Win!	Shediac C
	Workshop 3: Alternative Means for Conducting Hearings	Ballroom C
6:15 – 7:00	CCAT Reception	Farmers Market Building
7:00	CCAT Banquet	Farmers Market Building
TUESDAY MAY 26TH		
8:00 – 9:00	Continental Breakfast	Mezzanine
9:00 – 10:15	Plenary D: Dealing with Difficult and Vexatious Parties	Ballroom A
10:15 – 10:45	Break	Mezzanine
10:45 – 12:15	Workshop 4: How to Deal with Difficult Parties & Representatives	Ballroom B
	Workshop 5: Lessons in Diversity	Shediac C
	Workshop 6: Public Accountability – the right to know	Ballroom C
12:15 – 1:30	Lunch, Closing Remarks and Thanks; Presentation for 2016 Symposium	Ballroom A

* the Registration office will be open from 08:00 – 17:00 hrs daily