



Council of Canadian Administrative Tribunals

The Modern Canadian Tribunal: 25 Years in the Making

Halifax Marriott Harbourfront
Halifax, Nova Scotia
May 31 - June 2, 2009



Final Conference Program

Council of Canadian
Administrative Tribunals
25th Annual Conference

25
YRS/ANS

Conseil des tribunaux
administratifs canadiens
25^e Congrès annuel

Conference Co-chairs

Louanne Labelle
Chief Appeal Commissioner
Workers' Compensation Appeals Tribunal
Halifax, Nova Scotia

Diane K. Zwicker
Senior Solicitor, Legal Services
Nova Scotia Department of Justice
Halifax, Nova Scotia

(Aussi disponible en français)



SUNDAY, MAY 31, 2009

9:00 – 5:30

REGISTRATION DESK OPEN

Ballroom Foyer

9:00 – 12:00

CCAT BOARD OF DIRECTORS' MEETING

Atlantic Suite

OPTIONAL TOURS

Ballroom Foyer – See Tour Desk

- Halifax Walking Tour
- City Bus Tour
- Harbour Cruise

12:00 – 1:00

OPENING LUNCHEON AND WELCOMING GREETINGS/REMARKS

Halifax Ballroom - Simultaneous Interpretation French & English

The Honourable Cecil P. Clarke, *Attorney General and Minister of Justice of Nova Scotia*

Paul M. LeBreton, *President, Council of Canadian Administrative Tribunals and Chairperson, Appeals Tribunal, WorkSafe NB, Saint John, New Brunswick*

Co-chairs: Louanne Labelle, *Chief Appeal Commissioner, Workers' Compensation Appeals Tribunal, Halifax, Nova Scotia* and Diane K. Zwicker, *Senior Solicitor - Legal Services, Nova Scotia Department of Justice, Halifax, Nova Scotia*

1:15 – 2:45

PLENARY SESSION

Nova Scotia ABC - Simultaneous Interpretation French & English

The Future of Administrative Tribunals/Justice

Various Canadian governments have made administrative justice reform a priority, but have they really effected change? How different is today's tribunal world from what it was 25 years ago? And where is administrative justice reform on governments' current agendas? Hear the views of a panel of senior government policy makers on where tribunals are at, where they will be going, and what it will take to get there.

Speakers: Margaret MacDonald, *Deputy Minister, Labour and Workforce Development, Halifax, Nova Scotia*; Debra Roberts, *Public Appointments Secretariat, Toronto, Ontario*; and Gaston Pelletier, *Avocat, Direction des Affaires législatives du Ministère de la justice du Québec*

Moderator: Dianne Flood, *Executive Director, Administrative Justice Office, Government of British Columbia, Victoria, British Columbia*

2:45 – 3:15

REFRESHMENTS & NETWORKING

Ballroom Foyer

3:15 – 5:15

ROUNDTABLE DISCUSSION FORUMS

1. Workers' Compensation

Nova Scotia ABC - Simultaneous Interpretation French & English

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

2. Human Rights

Nova Scotia D - Simultaneous Interpretation French & English

Facilitator: Krista Daley, *Director and CEO, Nova Scotia Human Rights Commission, Halifax, Nova Scotia*

3. Property Assessment and Taxation

Acadia A - English

Facilitators: Rick Stephenson, *Chair, Ontario Assessment Review Board, Toronto, Ontario* and Marcelle Bourassa, *Vice-Chair, Ontario Assessment Review Board, Toronto, Ontario*

4. Public Utilities / Economic Regulations

Acadia B - English

Facilitator: Peter Gurnham, Q.C., *Chair, Nova Scotia Utility and Review Board, Halifax, Nova Scotia*

5. Rental Housing / Landlords and Tenants

Halifax Ballroom - Simultaneous Interpretation French & English

Facilitators: Lilian Ma, *Chair, Landlord and Tenant Board of Ontario, Toronto, Ontario*; and Luc Harvey, *Président, Régie du logement du Québec, Montréal, Québec*

6. Labour and Employment

Acadia C - English

Facilitators: Kevin Whitaker, *Chair, Ontario Labour Relations Board, Toronto, Ontario*

SUNDAY, MAY 31, 2009

6:00 - 7:30

PRESIDENT'S RECEPTION: MARITIME MUSEUM OF THE ATLANTIC

Catch up with old friends or mix and mingle with new colleagues from across Canada while enjoying the Museum of the Atlantic

**MONDAY, JUNE 1, 2009**

8:00 – 5:00

REGISTRATION DESK OPEN*Ballroom Foyer*

8:00 – 8:45

CONTINENTAL BREAKFAST*Ballroom Foyer*

9:00 – 10:30

PLENARY SESSION**A Debate – Independence and Ocean Port***Nova Scotia ABC - Simultaneous Interpretation French & English*

Resolved – that *Ocean Port* (SCC, 2001) represents the appropriate view of administrative tribunals in Canada, i.e., that court-like principles of independence should not be guaranteed for tribunals, and that there should be no restrictions on how governments may wish to design tribunals and their membership and processes. Pro – Kevin Whitaker and Craig Jones; Con – Ron Ellis and Kimberley Turner.

Debaters: Kevin Whitaker, *Chair, Ontario Labour Relations Board, Toronto, Ontario*; Craig Jones, *Supervising Counsel, Constitutional & Administrative Law Group, Ministry of the Attorney General, Victoria, British Columbia*; Ron Ellis, *Q.C., former Chair of Workers' Compensation Appeals Tribunal (Ontario), Toronto, Ontario*; and Kimberley Turner, *Partner, Pink Breen Larkin, Halifax, Nova Scotia*

Moderators: Wayne D. Cochrane, *Q.C., Member, Nova Scotia Utility and Review Board, Halifax, Nova Scotia*

10:30 – 11:00

REFRESHMENTS & NETWORKING*Ballroom Foyer*

11:00 – 12:30

CONCURRENT WORKSHOPS
**7. Technology for Self-Represented Parties:
Bridging the Digital Divide Facing Self
Represented Customers**
Acadia - Simultaneous Interpretation French & English

From 1998-2001, Professor Ronald Staudt of Chicago-Kent College of Law studied self-represented litigants in five courts across the United States. The results of the study, partnered with the Center for Computer Assisted Legal Instruction, created a unique software tool, A2J Author®. This tool allows a tribunal to collect data from self-represented litigants to document assembly processes, feeding e-filing systems and populating client databases using the collected information.

Speaker: Ronald W. Staudt, *Professor of Law and Associate Vice President for Law, Business and Technology, Chicago-Kent College of Law, Chicago*
Moderator: Walter Pylypchuk, *Legal Counsel, Workers' Compensation Appeal Tribunal, Richmond, B.C.*

**8. Dispute Resolution: More Satisfying and Faster
– How to Benefit from the Experience of Others**
Nova Scotia ABC - Simultaneous Interpretation French & English

As adjudicators, we've all faced the difficulty of providing timely resolutions of disputes. This session featuring two of Canada's foremost practitioners, is designed to help us to consider alternatives that help to move the process along and provide what all parties to the dispute want - an opportunity to be fully heard and an expedited, inexpensive resolution.

Speakers: Hélène de Kovachich, *Présidente et juge administratif en chef, Tribunal administratif du Québec, Montréal, Québec*; and David Merner, *Dispute Resolution Office, Ministry of Attorney General, Victoria, British Columbia*

Moderator: Brian McKenna, *Vice-Chair, Island Regulatory and Appeals Commission, Charlottetown, Prince Edward Island*

9. What were you thinking?*Nova Scotia D - Simultaneous Interpretation French & English*

Authority and independence must be balanced by accountability. How can a tribunal ensure that its members clearly understand their role and the expectations for ethical conduct? How should allegations of questionable behaviour be managed? What do you do when all else fails and the actions of one member imperils the reputation of all?

Speakers: Brian P. Goodman, *Chairperson, Immigration and Refugee Board of Canada, Ottawa, Ontario*; and David Mullan, *Professor Emeritus, Faculty of Law, Queen's University, Kingston, Ontario*

Moderator: Murray W. Chitra, *Chair, Ontario Civilian Commission on Police Services, Toronto, Ontario*

12:30 – 1:30

LUNCHEON & GUEST SPEAKER*Halifax Ballroom - Simultaneous Interpretation French & English*

Guest Speaker: Dennis Edney, *Principal, Dennis Edney Professional Corporation, Edmonton, Alberta, and pro-bono counsel for Omar Khadr*

1:30 – 3:00

PLENARY SESSION**Administrative Law Blast***Nova Scotia ABC - Simultaneous Interpretation French & English*

This workshop is modelled after the six-minute lawyer continuing legal education sessions – fun, fast-paced and functional. A panel of experienced counsel and professors will bring you up to date on recent developments regarding administrative law areas such as *Dunsmuir* and the standard of review, the impact of human rights legislation on your tribunal, concurrent jurisdiction, and other topical issues. Each panel member will speak for no more than 10 minutes. This will be a lively and dynamic discussion on what's happening and how these developments will apply to your tribunal or practice.

**MONDAY, JUNE 1, 2009** (cont'd)

Speakers: Professor Nicolas Lambert, *Faculty of Law, University of Moncton, Moncton, New Brunswick*; Professor Julia Hughes, *Faculty of Law, University of New Brunswick*; Jennifer Ross, *Burchell Hayman Parish, Halifax*; Martha A. Healey, *Partner, Ogilvy Renault LLP, Ottawa, Ontario*; and Professor France Houle, *Faculty of Law, Université de Montréal, Montreal, Quebec*

Moderator: Michael J. Wood, Q.C., *Partner, Burchell Hayman Parish, Halifax, Nova Scotia*

3:00 – 3:30

REFRESHMENTS & NETWORKING*Ballroom Foyer*

3:30 – 4:45

CONCURRENT WORKSHOPS**10. How can governments support training for tribunals without interfering in their independence?***Nova Scotia ABC - Simultaneous Interpretation French & English*

Some tribunals provide in-house training for members, others cannot. In either case, members are offered government-sponsored training programs. Some programs provide legal content like rules of evidence. Some programs are attended by members whose decisions may be quashed on appeal by other trainees. Some trainers are lawyers who plead before the trainees. How can members benefit from such programs while safeguarding their independence? How can government and in-house programs usefully co-exist? Discuss these issues with the speakers who will make a presentation on current training models.

Speakers: Laurette Laurin, *Ad.E., Chargée de mission, Secrétariat aux emplois supérieurs, Ministère du Conseil exécutif du Gouvernement du Québec*; Heather MacNaughton, *Chair, Human Rights Tribunal, Vancouver, British Columbia*; and Virginia Adamson, *Executive Director and Senior Counsel, Royal Canadian Mounted Police External Review Committee, Ottawa, Ontario*

Moderator: Anne Leydet, *Juge administratif, Tribunal administratif du Québec, Montréal, Québec*

11. The State of Administrative Justice in Atlantic Canada*Acadia - Simultaneous Interpretation French & English*

Following on our opening plenary, a distinguished panel of experts and practitioners in administrative justice representing all four Atlantic provinces will provide a snapshot of how we deliver administrative justice in Atlantic Canada. The panel will address the challenges that are particular to our region and explore with you the changes and reforms needed for the future. We hope that this forum will provide the catalyst for more cooperation and dialogue within the administrative justice communities of the Atlantic Provinces.

Speakers: Laurie Rantala, *Director of Labour Services for the Nova Scotia Department of Labour and Workforce Development, Halifax, Nova Scotia*; Murray Murphy, *Senior Counsel with Stewart McKelvey in Charlottetown for Prince Edward Island*; Professor Aloke Chatterjee, *Faculty of Law, University of New Brunswick, Fredericton, New Brunswick*; and Barry Fleming, Q.C., *Newfoundland and Labrador's Citizens' Representative, St. John's, Newfoundland*

Moderator: David Mullan, *Professor Emeritus, Faculty of Law, Queen's University, Kingston, Ontario*

12. Accessibility: How to ensure adequate accessibility to tribunal justice for those with mental illness?*Nova Scotia D - Simultaneous Interpretation French & English*

This is a follow-up from a 2008 panel. The presenters will include a person who suffers from mental illness who has had to navigate the justice processes as well as a representative from a tribunal that has had to deal with these issues on a regular basis. The aim of the workshop is to create a form of best-practices checklist.

Speakers: Archibald Kaiser, *Professor, Dalhousie Law School, Halifax, Nova Scotia*; and Keith Anderson, LL.B., LL.M., *a mental health advocate and writer, Sydney, Nova Scotia*

Moderator: Krista Daley, *Director and CEO, Nova Scotia Human Rights Commission, Halifax, Nova Scotia*

4:45 – 5:00

ANNOUNCEMENTS

6:30 – 10:00

RECEPTION, LOBSTER DINNER AND MUSICAL ENTERTAINMENT – Atlantic Canada Ceilidh*Ballroom Foyer and Halifax Ballroom***TUESDAY, JUNE 2, 2009**

8:00 – 3:30

REGISTRATION*Ballroom Foyer*

8:00 – 8:45

CONTINENTAL BREAKFAST*Ballroom Foyer*

9:00 – 10:30

PLENARY SESSION**Judges' Panel – Getting It Right: Tips from the Bench***Nova Scotia ABC - Simultaneous Interpretation French & English*

A practical and informative session for tribunal members and counsel. A former Justice of the Supreme Court of Canada and two appellate judges will explore judicial review and appeals from the perspective of the reviewing judge: when will a decision be struck down, what is

TUESDAY, JUNE 2, 2009 (cont'd)

reasonableness, what is deference, and what merits deference.

Speakers: The Honourable Michel Bastarache, *former Justice of the Supreme Court of Canada*; The Honourable David Jenkins, *Chief Justice of Prince Edward Island and Chief Justice of the Appeals Division of the P.E.I. Supreme Court*; and The Honourable Joel E. Fichaud, *Nova Scotia Court of Appeal*

Moderator: Marc J. Belliveau, *Partner, Stewart McKelvey, Halifax, Nova Scotia*

10:30 – 10:45

REFRESHMENTS & NETWORKING

(Ballroom Foyer)

10:45 – 12:30

CONCURRENT WORKSHOPS**13. Privacy Issues**

Nova Scotia ABC - Simultaneous Interpretation French & English

The focus of the discussion will be on the tension between public expectations of a "open court" system and the privacy challenges posed by new internet search and data mining technologies.

Speakers: Jennifer Stoddart, *Privacy Commissioner of Canada, Ottawa, Ontario*; Claude Jacques, *General Counsel and Secretary, Canadian Transportation Agency, Gatineau, Quebec*, and Julius H. Grey, *Professor and Lawyer, Montreal, Quebec*

Moderator: John Frecker, *President, Legistec Inc. Ottawa, Ontario*

14. Legislative and Regulatory Drafting

Acadia - Simultaneous Interpretation French & English

Andrea Lockwood, Deputy Director of the Public Law Policy Section of the federal Department of Justice, will discuss the issues and processes involved in reform for administrative tribunals. Dianne Flood, Executive Director of the Administrative Justice Office in British Columbia will talk about the role that her office plays in maintaining consistency in the application of BC's new *Administrative Tribunals Act*. Together they will outline the steps in the process of developing different types of instruments to meet the needs of administrative tribunals, from policy and guidelines to regulations and legislation, and where and how you may have an impact.

Speakers: Dianne Flood, *Executive Director, Administrative Justice Office, Victoria, British Columbia*; and Andrea Lockwood, *Deputy Director and Senior Counsel, Public Law Policy Section, Department of Justice, Ottawa, Ontario*

Moderator: Diane K. Zwicker, *Senior Solicitor - Legal Services, Nova Scotia Department of Justice, Halifax, Nova Scotia*

15. Merit-based Reappointments – Implications for Member Performance Appraisals, Adjudicative Independence and Tribunal Management

Nova Scotia D - Simultaneous Interpretation French & English

This panel will discuss why the administrative justice system should focus more on a merit-based process for reappointments, and not just on the issue of merit in the initial selection process. An effective performance appraisal process is a pre-condition for a merit-based reappointments process is necessary to support the credibility of the tribunal, to protect adjudicative independence, and to effectively manage the members in terms of professionalizing the tribunal by promoting quality and consistency.

Speakers: Jean-François Clément, *Président et juge administratif en chef, Commission des lésions professionnelles du Québec*; Jill Callan, *Chair, Workers' Compensation Appeal Tribunal, British Columbia*; and Peggy Hartman, Q.C., *Assistant Deputy Minister, Alberta's Agency Governance Secretariat, Edmonton, Alberta*

Moderator: Gary Yee, *Special Advisor to the Deputy Chairperson, Immigration Appeal Division, Immigration and Refugee Board of Canada, Toronto, Ontario*

12:30 – 2:30

LUNCHEON,

Halifax Ballroom - Simultaneous Interpretation French & English

CCAT MEDAL 2009 AWARD PRESENTATION TO:
Anne S. de Villars, Q.C. & David Phillip Jones, Q.C.

2010 CONFERENCE ANNOUNCEMENTS:
Co-chairs, Hélène de Kovachich and
Jean-François Clément

2:30 – 3:00

CLOSING REMARKS

Halifax Ballroom - Simultaneous Interpretation French & English

3:00 – 3:30

ANNUAL GENERAL MEETING OF CCAT MEMBERS

Halifax Ballroom - Simultaneous Interpretation French & English

Report on CCAT's 2008 activities and election of the new Board of Directors for 2009–2010

3:30

CONFERENCE CONCLUDES

4:00 – 5:00

CCAT BOARD OF DIRECTORS' MEETING
Acadia A

SPONSORS & ACCREDITATION

CCAT is pleased to inform participants that the Conference has been accredited by several Law Societies and count for a total of 12.5 hours of continuing legal education (CLE).

The Law Societies are: Le Barreau du Québec, the Law Society of Upper Canada and the Law Society of British Columbia.

CCAT wishes to acknowledge the financial support from sponsors and suppliers:



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Domaine de Grand Pré

2009 Conference Organizing Committee

CCAT extends sincere appreciation to the following volunteers who gave generously of their time and effort to bring you this 25th Annual Conference.

Conference Co-Chairs:

Louanne Labelle, Chief Appeal Commissioner, Workers' Compensation Appeals Tribunal, Halifax

Diane K. Zwicker, Senior Solicitor - Legal Services, Nova Scotia Department of Justice, Halifax

Committee members:

Murray Chitra, Chair, Ontario Civilian Commission on Police Services

Mary Camacho, Registrar and General Manager, Ontario Civilian Commission on Police Services

Danielle Dumont, Régisseuse, Régie du logement

Krista Daley, Director and CEO, Nova Scotia Human Rights Commission

John Frecker, President, Legistec Inc.

Dianne Flood, Executive Director, Administrative Justice Office, Government of British Columbia

Anne Leydet, Juge administratif, Tribunal administratif du Québec

Linda Keen, Former Chairperson, Canadian Nuclear Safety Commission

Brian McKenna, Vice-Chair, Island Regulatory and Appeals Commission, Prince Edward Island

Walter Pylypchuk, Legal Counsel, Workers' Compensation Appeal Tribunal, British Columbia

Gary Stanley, Chair, Ontario Highway Transport Board

Kevin Whitaker, Chair, Ontario Labour Relations Board

GENERAL INFORMATION

SIMULTANEOUS TRANSLATION

English-to-French and French-to-English simultaneous translation will be available for all sessions except for three Tribunal Sector Roundtables as noted herein.

EVALUATION FORM

Participants' kits contain an Overall Conference Evaluation Form. Please complete and deposit in the box at the reception desk.

In order to be environmentally friendly, evaluation forms have not been printed for the conference's 19 sessions. However, evaluation forms are available on CCAT's Web site under Conferences. Please take a few minutes to complete an evaluation form for each session you attend by going to CCAT web site during or after the conference.

CCAT uses participants' comments and suggestions to continuously improve the quality of its annual conferences, programs and services.

PRESENTATIONS BY SPEAKERS

The papers and presentations of speakers will not be reproduced but will be available on CCAT's website after the conference. Please note that only papers authorized to be posted by their authors will be on the website.

FUTURE CCAT CONFERENCES

Year 2010

CCAT's 5th International Conference

Le Centre Sheraton Hotel

Montreal, Quebec

May 30 to June 1, 2010

Year 2011

CCAT's 27th Annual Conference

The Ottawa Westin

Ottawa, Ontario

June 4 to 7, 2011

FOR MORE INFORMATION

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