



**Council of Canadian Administrative Tribunals**

**22<sup>nd</sup> Annual Conference**

***The Integrated Administrative Tribunal:  
From Concept to Reality***

**Ottawa Congress Centre  
Ottawa, Ontario**

**June 11 - 13, 2006**

CCAT's 22<sup>nd</sup>  
Annual Conference

*The Integrated Administrative  
Tribunal:  
From Concept to Reality*

Ottawa, June 11, 2006

Welcome to CCAT's 22<sup>nd</sup> Annual Conference, "*The Integrated Administrative Tribunal: from Concept to Reality.*"

This year's theme is built on the premise that a tribunal that is appropriately *integrated*, in the sense that its various elements (members, legal advisers, researchers, case officers, administrators and others) function in harmony, works most effectively and efficiently in the interest of its stakeholders. This conference will move along an arc *from concept to reality*, providing discussion on best practices along the way. We begin with shaping the Tribunal to best meet its mandate. We then put the tribunal to work, examining its management of cases, its hearing style and finally its decision-making and decision-writing processes.

This year's program offers a range of topics addressing our theme, supplemented by perennial favourites such as updates on administrative law and alternative dispute resolution. We believe the conference offers significant value to everyone associated with administrative tribunals.

Over two and a half days, more than 60 speakers and presenters will engage you in administrative law issues during some 20 workshops, roundtables and plenary sessions. These sessions are designed to promote learning and assist in the quest for excellence in our work. The collegial setting of this conference will also allow time for networking and reflection.

We warmly thank the volunteer members of our program planning committee: Linda Gehrke, Louanne Labelle, Odette Laverdière, Walter Pylypchuk, Terry Sargeant and Gary Yee and all the moderators who have assisted in organizing sessions. We were privileged to draw on their experience as decision-makers, administrators and legal counsel to develop the program for this year's conference. We are also grateful for the unflagging efforts and guidance of CCAT's Executive Director, Arthur B. Trudeau, and the assistance of his support staff.

Our speakers, who are generously volunteering their time, come from diverse groups such as the judiciary, government, business, academia, and of course tribunals. We thank them for their significant contribution to the success of the conference.

Thank you for joining us this year and enjoy the conference.

The Conference Co-Chairs

*Lilian Ma*

Chair, Ontario Rental Housing Tribunal  
Toronto, Ontario

and

*James O'gilvy*

Member, Canadian International Trade Tribunal  
Ottawa, Ontario

Sunday, June 11, 2006

**9:00 REGISTRATION OPENS**

Congress Hall Level - North Lobby

**10:00 – 12:30 Tribunal Sector Roundtables  
Concurrent Sessions**

Congress Hall  
Salon E  
(Bilingual)

**A. Workers' Compensation**

This roundtable will feature a discussion of themes that are of interest to Appeals Tribunals around the country. Themes include: mental stress - when is it compensable? Adjudicating chronic pain: establishing the causal link to an injury and other adjudication issues; Dealing with the Workers' Compensation Boards: active appeal participant, system partner, advisory body; The unrepresented appellant: Kelly v. Nova Scotia Police Commission. (There will be ample time for discussion and for participants to raise other areas of concern.)

**Moderators/Panellists:** Louanne Labelle, Chief Appeal Commissioner, Workers' Compensation Appeal Tribunal, Halifax, Jill Callan, Chair, Workers' Compensation Appeal Tribunal, Vancouver and Linda Gehrke, Vice-Chair, Workplace Safety and Insurance Appeals Tribunals, Toronto

Capital Hall  
1 & 2  
(Bilingual)

**B. Rental Housing**

This roundtable deals with the rent control and landlord and tenant dispute resolution systems in Canada. Case load management; mediation - how it works; alternative means to oral hearings: telephone/video conferences and paper files.

**Moderators/Panellists:** France Desjardins, présidente, Régie du logement du Québec, Montréal and Lilian Ma, Chair, Ontario Rental Housing Tribunal, Toronto.

Capital Hall  
3 & 4  
(Bilingual)

**C. Human Rights**

This roundtable will review recent cases in the human rights field. Examples include: the "Webesky case" which was released recently by the Supreme Court of Canada and the use of alternate processes, such as the grievance process, and the Human Rights Commission for dealing with human rights issues. Brief presentations on various themes will be followed by an opportunity for all participants to engage in discussion.

**Moderators:** Charlach Mackintosh, Chief Commissioner, Alberta Human Rights and Citizenship Commission, Edmonton and Richard Tardif, Senior Counsel, Canadian Human Rights Tribunal, Ottawa.

**Panellists:** Sylvie Matteau, Acting Chairperson, Public Service Labour Relations Board, Ottawa; Karen Jensen, Member, Canadian Human Rights Tribunal, Ottawa; Joy Noonan, Partner, Heenan Blaikie LLP, Ottawa; and Cynthia Petersen, Lawyer, Sack, Goldblatt, Mitchell LLP, Toronto.

Capital Hall  
5

**D. Labour Relations & Employment**

This roundtable will enable members, staff and chairs of labour relations and employment tribunals to share information with each other and discuss current issues and

trends affecting their tribunals such as: case management, self-represented parties, evidentiary issues, agency review, legislation and judicial review, development of board (and agency) law and policy. Discussion will follow.

**Moderators/Panellists:** Ian Mackenzie, Vice-chairperson, Public Service Labour Relations Board, Ottawa; Kevin Whitaker, Chair, Ontario Labour Relations Board, Toronto; Mike Fleming, BC Labour Relations Board, Vancouver; and Guy Giguère, Chair, Public Service Staffing Tribunal, Ottawa.

**12:30 – 1:30**

Colonel By  
Salon

**Lunch -- Welcoming Remarks by  
Conference Co-Chairs; Presentation of  
the Marie-Paule Scott Commemorative  
Scholarship to Virginie Désilets**

**1:30 – 3:00**

Congress Hall  
Salon E  
(Bilingual)

**E. Opening Plenary: Setting the Stage**

A blueprint for an Integrated Administrative Tribunal through the consideration of the three pillars of relationships: a) with government; b) within the tribunal and c) with parties and stakeholders. This plenary will discuss the broad concept of these relationships with an emphasis on the first pillar - relationship with the government. In addition, the plenary will offer an overview of the American administrative justice model.

**Moderator:** Lilian Ma, Chair, Ontario Rental Housing Tribunal, Toronto.

**Speakers:** Laverne Jacobs, Visiting Scholar, Cornell University, Ithaca, New York; Frank Falzon, Counsel, Victoria; and The Hon. John Hardwicke, Executive Director, National Association of American Law Judges (NAALJ), Baltimore, Maryland, USA.

**3:00 – 3:30**

North Lobby  
& Capital Hall

**Refreshments and Networking**

**3:30 – 5:00**

Congress Hall  
Salon E  
(Bilingual)

**Concurrent Workshops (3)**

**F. Internal Tribunal Governance – Staff and Members**

This workshop deals with the second pillar: the design of the integrated administrative tribunal; governance and organization, roles of members, roles of staff and integration thereof. The integrated tribunal must have clear delineation of responsibility for the work of tribunal as between the tribunal members and staff, while fostering a culture of cooperation, mutual respect and client service. How should the work be apportioned between members and staff to ensure that the tribunal is able to resolve as many cases as early as possible while maintaining quality and fairness? What is the role of member managers and staff managers? How are differences or problems best handled?

**Moderator:** Brian Goodman, Deputy Chairperson, Immigration Appeal Division, Immigration and Refugee Board, Toronto

**Speakers:** Chisanga Puta-Chekwe, Chair, Social Benefits Tribunal (Ontario), Toronto; Jill Callan, Chair, Workers' Compensation Appeal Tribunal, Vancouver, and Sylvain Gendreau, Directeur de l'administration, de la planification stratégique et du développement, Régie du logement du Québec, Montréal

Capital Hall  
1 & 2  
(Bilingual)

### G. The Third Pillar

This workshop deals with the third pillar: taking the pulse of parties and other stakeholders: What works and what doesn't. The panel will discuss the various efforts and work done by different tribunals and agencies in Canada in acquiring stakeholders' input. The experiences of the Tribunal administratif du Québec, the Ontario Rental Housing Tribunal, the Public Service Labour Relations Board, and the newly created Public Service Staffing Tribunal will be shared with participants.

**Moderator:** Guy Giguère, Chair, Public Service Staffing Tribunal, Ottawa

**Speakers:** Jacques Forgues, président, Tribunal administratif du Québec (TAQ), Québec; Vince Brescia, President, Federation of Rental Housing Providers of Ontario, Toronto; and Kathy Laird, Legal Director of Advocacy Centre for Tenants, Toronto

Capital Hall  
3 & 4  
(Bilingual)

### H. Administrative Law Update

The session will provide participants with an overview of, and insights into, the latest developments in administrative law from across the country, including cases which engage Charter issues. The materials and discussion will prove to be a useful resource to both adjudicators and practitioners who face daily the ever changing landscape in administrative justice.

(This session is repeated on Monday afternoon.)

**Moderator:** Vladimir (Walter) A. Pylypchuk, Legal Counsel, Workers' Compensation Appeal Tribunal, Richmond, BC

**Speaker:** Raj Anand, Partner, WeirFoulds LLP, Toronto

5:00 – 6:30  
Terrace  
Congress Centre

### President's Reception

Monday, June 12, 2006

8:00 – 9:00  
Congress Hall  
North Lobby

### Registration / Continental Breakfast

9:00 – 10:30  
Congress Hall  
Salon E  
(Bilingual)

### I. Plenary: Directing the Action

Putting the Tribunal to work: preparing for a case and carrying it through the process. This plenary will explore the broad outlines of best practices in case management from three points of view – those of representatives of the judiciary, outside counsel and tribunals. The speakers will address such matters as information gathering, case preparation and institutional constraints. Among other matters they will discuss how the Tribunal interacts with interested parties, the appropriate roles of members and staff, and their duty of fairness to external stakeholders in both gathering and disseminating information.

**Moderator:** James Ogilvy, Member, Canadian International Trade Tribunal, Ottawa

**Speakers:** The Honourable Michel Robert, Chief Justice, Québec Court of Appeal, Montreal; Richard G. Dearden, Partner, Gowling Lafleur Henderson LLP, Ottawa; and Linda Lamoureux, Chair, Health Professions Appeal and Review Board, Toronto

10:30 – 11:00  
North Lobby  
& Capital Hall  
Foyer

### Refreshments and Networking

11:00 – 12:30

### Concurrent Workshops (3)

Congress Hall  
Salon E  
(Bilingual)

### J. Preparing for a Case

What are the essential elements in pulling together the substance of a case, and how should they be handled? Participants in this session will look at some of the issues to be considered in working within both legal and research frameworks. There will be discussion on statutory and regulatory contexts, the appropriate use of Tribunal-specific guidelines, the analysis of written evidence and argument to aid members in their preparation, the roles of in-house counsel and researchers, case officers and investigators, and various ways in which their activities can be pursued in a collaborative and efficient way.

**Moderator:** Sylvie Dupont, Secretary to the Board, Patented Medicine Prices Review Board, Ottawa

**Panellists:** Sandy Greig, Director of Research, Canadian International Trade Tribunal, Ottawa; Ron Ashley, Senior Counsel, Canadian Transportation Agency, Gatineau; and Nathalie Drouin, Directrice générale aux affaires juridiques et secrétariat, l'Autorité des marchés financiers, Montréal

Capital Hall  
1 & 2  
(Bilingual)

### K. Case Management

Every case needs to be appropriately managed in order to provide fair treatment to parties, protect confidential information while respecting the rules of natural justice, give easy access to members and staff, and create a dossier that is ultimately accessible to an appeal court if necessary. Experts in the field will discuss building the file, maintaining and managing the record, and organizing the flow of materials and information in an environment where electronic files and filing are becoming the norm. They will also discuss good practices in communicating with parties to the case and with others who may have an

interest, such as government agencies, non-participating lawyers or individuals, and the news media.

**Moderator:** Marc Leblanc, Secretary, Canadian Nuclear Safety Commission, Ottawa

**Panelists:** Diana Macri, Director of Operations, Ontario Rental Housing Tribunal, Toronto; H el ene Nadeau, Secretary, Canadian International Trade Tribunal, Ottawa

Capital Hall  
3 & 4  
(Bilingual)

## L. Alternative Dispute Resolution

This will be a practical workshop on advanced alternative dispute resolution. It will highlight, through simulation, various strategies and techniques that can be used by the mediator in situations marked by conflict and emotional tension.

**Moderators:** H el ene de Kovachich, member, Tribunal administratif du Qu ebec, Montr eal and Caroline Rowan, Vice-Chair, Ontario Labour Relations Board and Part-time Member, Human Rights Tribunal of Ontario, Toronto

**Conciliator:** William Jackson, Labour Relations Specialist, Toronto, **Counsel for Company:** Mary Anne McKellar, Member of the Labour Relations Board, the Pay Equity Hearings Tribunal, and the Human Rights Tribunal of Ontario, Toronto; **Management:** Claude Jacques, General Counsel and Secretary, Canadian Transportation Agency, Gatineau; **Counsel for Mrs. Chang:** Philippe Rabot, Commissioner, CPP/OAS Review Tribunals, Ottawa; **Mrs. Chang:** Meriel Bradford, Member, Canadian International Trade Tribunal, Ottawa.

12:30 – 1:45  
Colonel By  
Salon

## Lunch / Presentation of the CCAT 2006 Medal to The Honourable Justice Ren e Dussault, Qu ebec Court of Appeal

1:45 – 3:15  
Congress Hall  
Salon E  
(Bilingual)

## M. Plenary: The Performance – Managing a Hearing

Whether it is paper-based or oral, the hearing typically provides our highest drama. It must be directed and managed. This live action session will present dramatized vignettes of what might, what should and even what shouldn't happen in the hearing room. The 2006 CCAT Little Theatre Group will act out a variety of situations commonly faced by Tribunals and provide the opportunity for commentary and discussion of a variety of best practices. This must-see session will touch on such matters as preliminary motions, procedural fairness, expert reports, the treatment of witnesses, dealing with unrepresented parties, intervention by panel members, in-camera procedures and more.

**Writers:** Gerry Stobo, Partner, Borden Ladner Gervais LLP, Ottawa and Reagan Walker, General Counsel, Canadian International Trade Tribunal, Ottawa

**Moderator:** Wendy A. Tadros, Chair, Transportation Safety Board of Canada, Ottawa

3:15 – 3:30  
North Lobby  
& Capital Hall

**Panellists/Actors:** Terry Sargeant, Chair, Manitoba Clean Environment Commission, Winnipeg; Ken Svenson, Manager of Appeals, Saskatchewan Workers' Compensation Board, Regina and Toby Vigod, Chair, Environmental Review Tribunal, Toronto.

## Refreshments and Networking

3:30 – 5:00

## Concurrent Workshops (3)

Congress Hall  
Salon E  
(Bilingual)

## N. Problem solving at the hearing

Two fundamental goals in running a hearing are to obtain the information members need for their decision and to complete the hearing within a reasonable time. What should tribunal members do if these goals are threatened? For example, what if: the evidence and argument do not cover points that members consider important? Evidence is of poor quality or permission is sought to file important evidence on the day of the hearing? Counsel or unrepresented parties do not understand tribunal procedure? Procedural issues threaten to consume a large proportion of the allocated hearing time?

**Moderator:** Ellen Fry, Member, Canadian International Trade Tribunal, Ottawa

**Speakers:** Sylvie Matteau, Acting Chairperson, Public Service Labour Relations Board, Ottawa; Victoria Bazan, Solicitor, Toronto, Ontario; and Wayne D. Cochrane, Q.C., Member, Nova Scotia Utility and Review Board, Halifax

Capital Hall  
1 and 2  
(Bilingual)

## O. Running a Proactive Hearing

A proactive hearing process means more management by the adjudicators of the issues, the evidence, the questioning of witnesses and the submissions. What are the legal limits on being proactive – when do you cross the line of natural justice or fairness? Apart from the legal question, what are the best practices in encouraging parties or counsel to agree to time limits or other limits? What are the boundaries between an adversarial process and an inquisitorial one? This workshop will engage a panel of tribunal experts in both the legal and practical issues regarding what a proactive hearing would look like, and how to implement a more proactive hearing process (training, cultural shifts, dealing with counsel, etc.).

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

**Speakers:** Michael Gottheil, Chair, Human Rights Tribunal of Ontario, Toronto; Lori Disenhouse, Legal Advisor, Immigration and Refugee Board, Toronto; and Jean-Pierre Arseneault, commissaire, Commission des l esions professionnelles, Montr eal

Capital Hall  
3 & 4  
(Bilingual)

## P. Administrative Law Update

(Repeat of Session H held on Sunday afternoon)

6:30

## Reception and Banquet

Colonel By Salon

**Speaker:** The Honourable Vic Toews, Minister of Justice and Attorney General of Canada

Tuesday, June 13, 2006

**8:00 – 9:00**  
North Lobby

**Registration / Continental Breakfast**

**9:00 – 10:30**  
Congress Hall E  
(Bilingual)

**Q. Plenary: Decision Time**

Deliberation, decision making and reason writing. A panel of experts from Canada and the United States will discuss the art and science of making decisions and communicating them effectively. Topics will include collegiality and consultation in the decision-making process and the writing of reasons. The plenary will provide context and themes for the workshops that follow.

**Moderator:** Odette Laverdière, Vice-présidente, Tribunal administratif du Québec, Québec

**Panellists:** Prof. Edward Berry, University of Victoria; The Hon. Lois F. Oakley, Chief State Administrative Law Judge, Office of State Administrative Hearings, Atlanta, Georgia, USA and President, National Association of Administrative Law Judges; and The Hon. Justice James D. Carnwath, Ontario Superior Court of Justice, Toronto

**10:30 – 11:00**  
North Lobby  
Capital Hall Level

**Refreshments and Networking**

**11:00 – 12:30**  
Congress Hall  
Salon E  
(Bilingual)

**Concurrent Workshops (3)**

**R. Panel Deliberations: Getting to Yes**

This will be an interactive workshop with all panellists discussing issues pertaining to decision making in the context of panel hearings. Topics will include: pre-hearing preparation and getting the decision out the door; deliberations, getting to yes and findings of credibility; dissents and concurring opinions; input by counsel and other staff; full board consultation, peer review before the release of the decision; and the contrast between courts and administrative boards.

**Moderator:** Louanne Labelle, Chief Appeal Commissioner, Workers' Compensation Appeals Tribunal, Halifax.

**Panellists:** Mr. Justice Thomas A. Cromwell, Nova Scotia, Court of Appeal, Halifax; Véronique Joly, Counsel, Canadian Transportation Agency, Gatineau; and Peter W. Gurnham, Chair, Nova Scotia Utility and Review Board, Halifax

**Capital Hall**  
1 & 2  
(Bilingual)

**S. Jurisprudence and Consistency**

Jurisprudence and consistency: balancing the need for consistency and independence in tribunals of part-time members and geographically dispersed tribunals.

**Moderator:** Heather MacNaughton, Chair, BC Human Rights Tribunal, Vancouver

**Panellists:** Gaétan Cousineau, Deputy Chairperson, Refugee Protection Division, Immigration and Refugee Board, Ottawa; Philippe Rabot, Commissioner: Office of the Commissioner of Review Tribunals, Ottawa; and Ronald S. Ellis, Arbitrator, Toronto

**Capital Hall**  
3 & 4  
(Bilingual)

**T. "Writing Real Good": Practical Tips for Crafting Better Decisions**

Adjudicators have a duty to provide reasoned decisions. They are an essential means of ensuring fairness, consistency, accountability and quality control. What can you do to ensure that your written decisions make sense to the parties, public and courts?

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

**Panellists:** Jean-François Clément, Commissaire, Commission des lésions professionnelles, Montréal; and Deborah M. Howes, Principal, High Clouds Incorporated, Edmonton

**12:30 - 1:45**  
Colonel By  
Salon

**Lunch – Closing Comments – CCAT's Plans for the May 2007 International Conference in Vancouver, BC**

**1:45 – 2:30**  
Colonel By  
Salon

**Annual General Meeting of CCAT members**

(Followed by a meeting of the newly-elected CCAT Board of Directors)

Please complete conference evaluation forms  
online at CCAT's Web site for plenary  
sessions and workshops you attended:  
<http://www.ccat-ctac.org>

For ongoing information about CCAT,  
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