# OFFICE OF THE WORKER ADVISER

# **Annual Report**

April 1, 2017 to March 31, 2018



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### MESSAGE FROM THE DIRECTOR

I am pleased to report on the accomplishments of the Office of the Worker Adviser (OWA) for 2017-2018. With 97 staff in 16 offices across Ontario, OWA is an important resource for vulnerable non-unionized workers in dealing with their WSIB claims or possible reprisals for exercising their health and safety rights. Below, I briefly highlight our workplace insurance services and then review our sixth year of services around reprisals.

OWA carries out its mandate as a partner in Ontario's workplace insurance system, along with the Workplace Safety and Insurance Board (WSIB), Workplace Safety and Insurance Appeals Tribunal (WSIAT) and Office of the Employer Adviser (OEA). With our mandate for reprisals, we are also a partner in Ontario's health and safety system. We are committed to helping both of these systems work for all the workers and employers that they serve. OWA's primary role with our partners is to help facilitate effective and timely dispute resolution within these systems.

# Workplace insurance services

2017-2018 was a turnaround year for OWA as we began to benefit from our implementation the previous year of a new service delivery model. Especially important was major progress on OWA's highest priority: reduction of its WSIAT appeals inventory. Our staff worked closely with WSIAT on innovations in appeals, including video hearings. The result of all these efforts was a reduction in OWA's inventory at WSIAT from 1265 to 876 cases by the end of 2017-2018 – an overall reduction of 30.8% in one fiscal year and getting very close to our target level of 650. In February 2018, I was pleased to attend a celebration of WSIAT's success in inventory reduction, convened by the new WSIAT Chair, which was also attended in person by OWA's top producers at the WSIAT level.

Success on WSIAT inventory reduction allowed OWA to begin to improve case turnover, including:

- reducing OWA's full representation caseload towards the target level of 2500 from the unsustainably high levels which occurred during the earlier period of high WSIAT inventory. By 2017-18 year-end, representation caseload at 2,535 was close to the target level, down 11.8% from 2016-2017 and an impressive 29.8% lower than the level of 3,611 reached in 2013-2014.
- reducing frontline case review inventory. 2017-2018 was the second straight year of modest reduction, setting the stage for further progress projected for 2018-2019. Case review inventory was 1,971, down from 2,103 cases in 2016-2017 (6.3%) and 2,213 cases in 2015-2016 (11.5%).

These numbers reflect very well on the efforts of OWA staff during a challenging time, as we worked with the workplace insurance system as a whole.

OWA responded to 8,791 new requests for service, an increase of 8% from the previous year; and resolved 4,772 through summary advice, an increase of 9% from 2016-2017. OWA accepted 617 cases for representation services, representing 59% of the cases reviewed. This represented a 4% improvement in acceptance rates.

The overall success rate in representation services in 2017-18 at WSIB and WSIAT was 54%. An increase of 3% from 2016-2017 and a significant increase from the 2013-2014 and 2014-15 level of 39%, this reflected well on worker advisers' evaluation of the merits of the cases which they had accepted for representation.

During 2017-2018, OWA was involved in some of the most complex cases in the system, including major clusters of occupational diseases, especially in Peterborough. This annual report highlights a number of positive WSIAT decisions obtained by worker advisers. Continuing our commitment to continuous improvement, we strengthened our protocols with WSIB and WSIAT in responding to the situations of injured workers who are experiencing psychological and financial crisis.

OWA was involved in proactive partnerships to deal with the workplace insurance system's challenges. I am especially proud of successful collaboration with employer representatives to develop consensus proposals on potential improvements to the appeals process and alternative dispute resolution.

# Health and safety reprisal services

Starting on April 1, 2012, amendments to the Occupational Health and Safety Act (OHSA), gave OWA the mandate to serve non-unionized workers who may have suffered reprisal by their employers for exercising their OHSA rights. 2017-2018 was the sixth year for this mandate.

Demand for representation services saw a significant increase in 2017-2018. A number of key measures were the highest in the history of the program. OWA's worker representatives completed 295 intakes, the most since the current service delivery model was adopted and a 29.4% increase over last year. They also filed more applications to the OLRB (78) than in any prior year, an increase of 39.3% over 2016-17. A total of 80 representation cases were resolved, representing a 25% increase over last year and the second highest number in the history of the program.

This shows the continuing importance of OWA's reprisals mandate to vulnerable non-union workers in Ontario and OWA's success in addressing these situations.

#### Thank you!

This was a turnaround year for OWA. We turned the corner positively and decisively on our WSIAT appeals inventory and our representation caseload. We also made significant progress on decreasing our case review inventory.

I wish to thank all those who contributed to our success during 2017-2018. This includes our workplace insurance program frontline staff, who stepped up to reduce our WSIAT appeals inventory and case review inventory. And our reprisals program staff, who successively addressed a significant increase in representation work. And thank you as well to our legal, administrative and management teams.

I also want to acknowledge the support of the Ministry of Labour, which facilitated interagency partnerships; and our colleagues at WSIB, WSIAT, and OEA, with whom OWA worked on solving problems and serving the public. I want to thank our partners in the worker community, with whom we collaborated closely in dealing with another year of major change. And also the many employer representatives with whom we worked on resolving cases in addition to tackling strategic issues such as improvements in early dispute resolution at the WSIB operating level as well as the appeal level and WSIAT.

Finally, I would like to recognize and thank the thousands of vulnerable workers and surviving family members who contacted us for information and who entrusted their cases to us. We tried our best to serve every single worker with dedication and care; and we learned much from those workers as well.

This was my last year as OWA Director, a position I have been privileged to hold since 2012. I will be retiring as of June 1, 2018. I'm very pleased to have served our clients and staff through a challenging time and to leave OWA positioned well for the future.

Alec Farquhar

Alex Forgular

Director

#### THE MANDATE OF THE OFFICE OF THE WORKER ADVISER

The OWA has two mandate areas:

- Section 176(1) of the Workplace Safety and Insurance Act (WSIA): to educate, advise and represent non-union workers and their survivors regarding workplace insurance claims and appeals.
- Section 50.1(1) of the Occupational Health and Safety Act (OHSA): to educate, advise and represent non-union workers who have complaints under the Occupational Health and Safety Act (OHSA) that their employer may have engaged in a reprisal against them for exercising their rights under the OHSA.

#### The OWA's vision is to:

- be a leader in advice, representation, and education in workplace safety and insurance matters, on behalf of the most vulnerable injured workers and their survivors:
- provide expert and effective advice, representation and education to vulnerable, non-unionized workers who may have suffered reprisal for asserting their rights under the Occupational Health and Safety Act;
- provide a vital public service that contributes to the effective functioning of Ontario's workplace safety and insurance and health and safety systems, and support a healthy workforce as a foundation for a strong, vibrant provincial economy; and,
- contribute to improving workplace safety and insurance and health and safety through community and system partnerships.

The OWA is an operational agency of the Ministry of Labour (MOL).

#### **OWA SERVICE DELIVERY**

Workplace insurance related services are provided from 16 offices in four regions:



Toronto East Region: Downtown Toronto, Scarborough and Ottawa Central Region: Downsview, Mississauga, Hamilton and St. Catharines Southwest Region: London, Waterloo, Windsor and a satellite location in Sarnia North Region: Sudbury, Elliot Lake, Sault Ste. Marie, Timmins and Thunder Bay

In addition to these office locations, OWA offers clinics in a number of other communities across the province where injured workers can meet in person with worker advisers without having to travel long distances. These communities include: Barrie, Brantford, Kingston, North Bay, Oshawa, Peterborough and St. Thomas. In 2017-2018, 14 clinics were held in total across the province.

**OWA's Central Client Services Unit (CCSU)** provides the following services, primarily in relation to the OWA's workplace insurance mandate:

- advice and representation services for OWA clients in legally complex and/or precedent setting cases
- internal legal advice and assistance to OWA managers and staff, including support around fulfilling professional responsibilities to OWA clients
- system improvement initiatives and policy submissions

- development of educational sessions and resources for OWA staff and other worker representatives
- development of educational materials for the public.

Occupational health and safety reprisal complaint services are provided by the OWA Occupational Health and Safety Reprisal Program (OHSRP) from the OWA's provincial office in Toronto. Most OLRB mediations and hearings are held in Toronto. Some mediations are held in regional centres. In 2017-2018, worker representatives traveled to London and Sudbury to represent workers.

# REPORT ON THE OWA'S WORKPLACE SAFETY AND INSURANCE MANDATE

The following section of this report relates to services provided under the OWA's workplace insurance mandate. Services provided under the OWA's occupational health and safety Reprisals mandate are reported separately later in this report.

#### **Overview of Services**

Under its workplace insurance mandate, the OWA focuses on the following services to non-union injured workers and their survivors:

- information and advice
- educational services
- representation in dispute resolution and appeals

In addition to serving individual clients, the OWA also seeks to work with system and community partners to help ensure that the system is responsive to the needs of all injured workers and survivors; and that appropriate referrals are made among the partners.

#### INFORMATION AND ADVICE

Some workers contact the OWA with a question about workplace insurance or for information to help them understand their entitlements. Other workers contact us because they have been denied benefits or services by WSIB and they want to appeal a decision. The OWA provides assistance in both situations: in the first, by providing information and "summary advice" (advisory services) and in the second by representing the worker in the dispute resolution and appeal process (representation services). During 2017-2018, OWA responded to 8,791 new requests for service.

#### OWA Website - http://www.owa.gov.on.ca

In addition to directly responding by phone or in person to questions workers may have about their workplace insurance claims, the OWA also promotes its website as a source of information to clients.

Highlights of the website include:

- pages on specific workplace insurance related topics;
- an appeals overview page features visuals and text outlining the key agencies in the system, the WSIB vs. the WSIAT;
- a webpage with the forms necessary to meet appeal time limits and to initiate an appeal;
- "frequently asked questions" about the OWA, workplace insurance, and health and safety reprisals;
- information sheets in 21 languages providing an overview of OWA's services; and
- an email enquiry service.

A featured Spotlight section also gives the OWA space to highlight important news and events.

#### **EDUCATIONAL SERVICES**

# Injured Workers and the General Public

The OWA provides educational services to injured workers and the general public through information sessions held in communities across the province. During 2017-2018, the OWA held 6 information sessions for MPPs' staff, 11 information or educational sessions for the public, and 14 clinics for injured workers in communities across the province.

# **Community and System Partners**

The OWA provides educational services at a more advanced level to community and system partners. OWA staff are also invited to present at continuing legal education sessions on workplace insurance topics. In 2017-2018, these services included the following:

- May 2017 CCSU staff presented on occupational disease to the Ontario Bar Association's annual workplace safety and insurance conference
- July 2017 Director presented at the Ontario Institute for Studies in Education on prevention and workers' compensation
- October 2017 Director presented at the Law Society Employment Law Summit on workplace insurance entitlement for stress and implications for other areas of law

- October 2017 CCSU staff participated in a panel at Lancaster House's Workplace Safety and Insurance Conference entitled "Taking the Pulse: The year's key compensation cases and what they mean for you"
- October 2017 CCSU participated in a panel on supporting vulnerable clients at a training conference for Toronto community legal clinics, which was repeated as a webcast all Ontario clinics in January 2018

# **Highlights of OWA representation services**

This section provides highlights of some of OWA's more complex cases and case clusters.

# **Occupational Disease**

During 2017-2018, the OWA continued to represent in a number of occupational disease clusters and individual cases in various parts of the province. This included Peterborough factory workers; Sarnia foundry, petrochemical, construction and factory workers; Elliot Lake uranium miners; northern Ontario hardrock miners and Kitchener-Waterloo rubber workers. The claims arising from these clusters were at various stages of adjudication, from initial evidence gathering up to WSIAT. The majority of occupational disease claims arise from exposures in the past. Some diseases, such as asbestos cancer, may take decades to develop. They have a devastating impact on the affected workers and families. Taken as a whole, OWA involvement in occupational disease cases is one of its most vital roles, helping hundreds of occupational disease victims and in many cases their survivors.

# **Sarnia Occupational Disease Cluster**

The OWA continued its work representing at WSIAT and WSIB in a cluster of occupational disease cases, including a number of lung cancers, arising from a closed factory in Sarnia. In 2017-2018, the WSIAT released a second interim decision in the lead case of the cluster (Decision No. 95/09I2). This decision made findings about the lead case worker's exposures and gave important insight into how the WSIAT will apply its general findings to a particular appeal. In follow-up to that decision, the WSIAT requested and received an additional assessment from the WSIB about the lead case worker's exposures. In addition, the OWA made submissions to the WSIAT asking them to clarify and reconsider aspects of Decision No. 95/09I2.

In 2017-18, the WSIAT also agreed to the OWA's request that the non-lead cases in the cluster be activated. In follow up, the OWA worked with the WSIAT to help get those cases ready for the hearing process. As of March 31, 2018, the OWA had 30 open cases from this cluster.

# **Peterborough Occupational Disease Cluster**

The OWA has been involved in occupational disease cases for workers from a large Peterborough factory since an initial intake clinic held by the Occupational Health Clinics for Ontario Workers (OHCOW) in 2004. This has meant working with the WSIB, OHCOW, the Unifor union, WSIAT, retirees' and local community groups for over a decade, addressing over 800 cases.

At the end of March 2017, OWA participated in a 3 day information session in Peterborough for affected workers and their families and survivors. This was partnered with WSIB, OHCOW, Unifor and the community coalition. The clinic had provided OWA with the opportunity to provide status updates for workers and families who had existing claims at WSIB system, as well as providing guidance in setting up new claims by workers or survivors who had not previously submitted one. This resulted in over 110 new claims submitted to WSIB during 2017-2018. It is anticipated, based on current trends in decisions rendered, that approximately 60% of these claims will be denied and will likely result in appeals requiring OWA representation.

In 2017-2018, there were important developments in this occupational disease cluster, including the commencement of a review by WSIB of 250 earlier cases.

At the inception of this review, OWA had 59 active claims at various stages of the WSIB and WSIAT process. During 2017-2018, submissions and advocacy by OWA resulted in 19 accepted claims which led to benefits well in excess of \$2,000,000 (one claim alone resulted in over \$840,000 in monetary benefits) paid to workers and their survivors. These accepted claims represented the recognition that these workers' work exposures significantly contributed to their health conditions.

OWA continues to be actively involved in the representation of workers and survivors in this occupational disease cluster, working with Unifor to determine whether there might be clusters as well from work locations in Trenton and Cobourg.

#### Rubber Workers – Kitchener/Waterloo

As a result of an intake clinic organized by the USW union in 2002 for rubber workers in the Kitchener-Waterloo area, approximately 400 WSIB claims were initiated. Many were cancer claims. Some were allowed at the operating level of WSIB. Another clinic was held in 2005, with an additional 200 claims initiated. The primary exposures were asbestos, polycyclic aromatic hydrocarbons, aromatic amines and nitrosamines.

Overall, OWA has received 48 cases from this cluster, of which 34 were accepted for representation. The others were opened for an initial review and closed due to insufficient evidence.

The majority of OWA's cases have been resolved in past years. At the end of 2017-2018, the OWA was representing the 16 remaining rubber workers and their survivors for entitlement to various cancers as a result of occupational exposures. The majority of the claims were for gastro-intestinal cancers.

During 2017-2018, nine submissions were made to the WSIAT, and at the end of the reporting period, OWA was waiting for a decision on these appeals. An additional four cases were in queue to be heard at WSIAT. The remaining cases are still under review.

#### **Emerging occupational disease clusters**

During 2017-2018, OWA was involved in two emerging occupational disease clusters:

#### a) Possible health conditions from aluminum prophylaxis

From the 1940s to the 1970s, thousands of hard rock miners in northern Ontario were required to breathe aluminum dust prior to each daily shift. This was called "aluminum prophylaxis" and the aluminum dust was called "McIntyre Powder". It was believed at the time that the dust provided protection from the health impacts of silica. This turned out to be mistaken and the practice ceased by 1979. Concern has been growing through the years that this extensive aluminum exposure may have led to neurological and perhaps other health consequences.

During 2016-2017, OWA worked with a community based initiative called the McIntyre Powder Project, the USW union, WSIB and OHCOW to organize community based intake clinics for exposed workers. Three clinics took place: Timmins in May and November 2016 and Sudbury in October 2016. A total of around 325 workers and family members attended these clinics. Since the clinics, other workers and surviving family members have brought forward additional cases.

In 2017-2018, the number of OWA cases from the McIntyre Powder Project increased to 71 from 60 cases in the previous year, and out of this, a number of cases were resolved, including 2 cancers, 2 COPD, 3 Hand-Arm Vibration Syndrome and 4 Noise Induced Hearing Loss.

It is expected that in 2018-2019, an additional 60 claims from the McIntyre Powder Project will be referred to the OWA. These claims will involve not only aluminum powder exposure but other health conditions due to mining exposures, such as Parkinson's Disease, Alzheimer's, COPD, sarcoidosis and silicosis.

# b) Agent Orange

During the 1960s through the 1980s, herbicides were used to suppress unwanted tree growth in Ontario, in forestry and other sectors. The most well known of these herbicides was referred to as "Agent Orange". Concerns have emerged that these exposures may have contributed to cancers and other health conditions. During 2017-2018, OWA was involved in initial investigations of these concerns.

# **WSIB Chronic Mental Stress Policy Consultation**

In May 2017 the Workplace Safety and Insurance Act (WSIA) was amended to allow benefits for workers who suffer from health conditions related to chronic mental stress that arose out of and in the course of their employment. As a result of this change, the WSIB released its draft policy for consultation on May 4, 2017.

The OWA provided submissions to the consultation in July 2017. We, along with other worker representatives, raised several concerns. The most important were about the legal test being applied for chronic stress claims, and the need for retroactive application of the policy. Subsequently, the Ontario Government further amended the WSIA to require retroactive application of the section allowing benefits for chronic mental stress. However, WSIB did not make any changes with regard to the legal test to be applied.

As of January 1, 2018, WSIB implemented entitlement to chronic mental stress, pursuant to its policy. OWA recruited a dedicated team of worker advisers to work with WSIB on these often challenging cases during the first year of implementation. The mandate of the team included identifying best practices in case management, evidence gathering and return to work.

#### SYSTEM AND COMMUNITY PARTNERSHIPS

OWA places a high priority on partnerships, both within the workplace insurance system and in the community. Across the province, OWA works actively with many local partners, to ensure good service and mutually beneficial referrals. This includes local WSIB offices, Members of Provincial Parliament constituency offices, health care providers and social service agencies. OWA also participates in partnerships at the provincial level. Highlights of provincial partnerships are reported below.

#### **WSIB Labour and Injured Worker Advisory Committee (LIWAC)**

LIWAC is an advisory committee from the worker community convened by the Chair of the WSIB. There is a similar advisory committee from the employer community. OWA was an active participant in LIWAC during 2017-2018. This included discussions of the WSIB's approach to entitlement and return to work for chronic stress disabilities; the analysis and mobilization of data to help target system resources; and how the WSIB's rate framework could best support prevention of occupational injury and disease.

#### Fatalities and Immediate Response (FAIR) Partnership

FAIR is a partnership with WSIB, MOL, and Threads of Life (an organization of families affected by workplace fatalities) to ensure coordinated services and support to workers and their families following traumatic workplace fatalities and catastrophic workplace injuries resulting in severe permanent impairment. During 2017-2018, the partners reviewed and renewed the partnership.

#### **Workers in Crisis and Critical Need**

In 2017-2018, OWA continued our system partnership with WSIB, MOL and WSIAT to ensure that identified cases are considered for prioritization in the appeal system. These cases are defined as: demonstrating significant financial hardship, homelessness, in imminent likelihood of death, posing a suicide threat, or having a severe mental health issue. Together we have ensured that any possible gaps in services are dealt with on a priority basis. During 2017-2018, the partners dealt with several specific serious cases. We also refreshed our protocols for collaboration.

#### Support to OWA Clients with Asbestos Cancers

For many years, OWA has represented hundreds of workers and surviving family members in asbestos disease cases, including mesothelioma, lung cancer and asbestosis. Ontario is now at the crest of a wave of asbestos cancers stemming from exposures up to the 1980s, with around 150 new mesothelioma cases and 350 new lung cancers annually. There is an urgent need for early detection and treatment, as well as prevention of any new exposures.

In 2017-2018, OWA continued to work with a group of employers and unions, in partnership with the Canadian Mesothelioma Foundation (CMF), on efforts to secure stable funding for research, early detection and treatment for OWA clients and other workers contracting mesothelioma, as well as for a national mesothelioma health care network. The CMF received seed funding to launch the network, including the selection of a Scientific Advisory Committee. OWA partnered with the CMF on priority referrals and support for workers newly diagnosed with mesothelioma. OWA participated with CMF in productive discussions of systemic issues around mesothelioma adjudication and treatment with WSIB and the University Health Network's Mesothelioma Program.

2017-2018 was an historic year in Canada for a permanent ban on the use of asbestos. The federal government published a draft regulation to implement the ban. OWA participated in the consultation and also played an important role in planning for a national summit on an asbestos disease response strategy scheduled for May 2018 in Ottawa.

# **KEY OWA SERVICE DELIVERY INITIATIVES**

OWA fully implemented major changes to its service delivery model during 2016-2017, based on recommendations developed by a joint management/staff working group. The service model responded to a changing operational environment and strengthened the OWA's capacity to meet clients' needs in a more timely way. This included:

- elimination of duplication of reviews of injured workers' WSIB claim files
- provision of comprehensive case reviews to help workers understand the strength and challenges in their cases and to facilitate referrals to alternative

sources for income and support services where their cases could not be pursued in the workplace insurance system

An evaluation plan for the service delivery model was developed during 2016-2017, by comparing the goals of the model changes to actual experience. A staff survey and consultation process was carried out in 2017-2018. Based on feedback, refinements to the service delivery model were implemented in the second half of 2017-2018. Staff received relevant training, including techniques on effective referrals for injured workers who might need additional support or services.

OWA communicated this new service delivery model to system and community partners.

### Service Excellence, Staff Learning and Workplace Wellness

The OWA demonstrates a strong commitment to professional development for its staff. Building on important work done in previous years, OWA is implementing a comprehensive learning plan for all staff. During the year, the OWA achieved the following in support of continued professional development of its staff:

- A needs assessment report was developed and presented to the management team, based on a comprehensive needs assessment survey and interviews with staff
- A curriculum for new worker advisers was developed and delivered to 12 new worker advisers, blending self-study on the Act and policies, two weeks of classroom training, mock hearings at the ARO and WSIAT levels, and new job aids including updated case management system and procedures manuals
- An experiential field training program was drafted to assist managers with developing and assessing new worker advisers
- An all staff learning event, and accompanying learning events for Worker Advisers, CSRs, and other staff was held in January 2018 in Toronto
- Development of an organizational learning plan for the 2018-2019 fiscal year
- Delivery of training sessions on current program developments and staff needs, including Mental Stress Provisions training, Time Limit Procedures training, and Respectful Workplace training delivered at Regional meetings
- Developed and delivered a webinar for worker advisers on case time limits, procedures and related professionalism concepts that was accredited by the law society for continuing professional development on professionalism

# **Workplace Violence Prevention and Peer Support**

OWA staff deal with vulnerable workers who sometimes experience crisis situations – often from a combination of financial, health and psychological factors. In extreme cases, workers may pose a threat of harm to themselves and/or others. OWA has long

recognized the importance of supporting these workers but also when appropriate, protecting them, OWA staff and other system partners from potential harm.

During 2017-2018, OWA also participated actively in the MOL's Peer Support Program, an initiative to provide peer to peer emotional support and resources in times of personal crisis.

#### STATISTICAL REPORTING

2017-2018 was a year of review and improvements of OWA's new service delivery model. The new model responded to changes in the OWA's operating environment and streamlined our services by reducing the initial service process from two stages to one: OWA provided comprehensive advice and referrals to workers, including those whose cases lack sufficient evidence for OWA to bring them forward into the appeals system. As noted earlier, it was a turnaround year on OWA's highest priority: reduction of its WSIAT appeals inventory. Success on WSIAT inventory reduction allowed OWA to begin to improve case turnover, including:

- reducing OWA's full representation caseload towards the target level of 2500 from the unsustainably high levels which it had reached during the earlier period of high WSIAT inventory. By 2017-2018 year-end, representation caseload was 2,535 cases, just slightly above the target, a reduction of 11.8% from 2016-2017 and an impressive 29.8% lower than the level of 3,611 cases reached in 2013-2014.
- reducing frontline case review inventory. 2017-2018 was the second straight year of modest reduction. Case review inventory was 1,971, down from 2,103 in 2016-2017 (6.3%) and 2,213 in 2015-2016 (11.5%).

#### **SUMMARY OF OWA'S ACHIEVEMENTS IN 2017-2018**

During the 2017-2018 fiscal year, OWA was successful in assisting a very substantial number of workers with their workplace insurance claims and appeals:

- OWA responded to 8,791 new requests for service, an increase of 8% from previous year; and resolved 4,772 cases through summary advice, an increase of 9% from 2016-2017.
- OWA completed 1,048 case reviews for workers who had requested representation service. This was a reduction of 11% from 2016-2017 but still well above the low level reached in 2015-2016, when the high inventory at WSIAT most greatly affected case processing at OWA.
- OWA accepted 617 cases for representation services, representing 59% of the cases reviewed. This too was a positive sign, representing a 4% improvement in

- acceptance rate and returning OWA to the historical average level of around 60% acceptance.
- The overall success rate in representation services in 2017-18 at WSIB and WSIAT was 54%. This represented an increase of 3% from 2016-2017 and a significant increase from the 2013-2014 and 2014-15 level of 39%. This reflected well on worker advisers' evaluation of the merits of the cases which they had accepted for representation.

#### **Client Satisfaction Levels**

The OWA takes pride in the quality of service it provides to clients. In order to identify and address any deficiencies, clients are asked to complete satisfaction surveys at the conclusion of OWA's representation service to them. Of the 159 individuals who responded to the survey in 2017-18, 97.0% were "very satisfied" or "satisfied" with the service they received. Some comments received from our clients:

- ➤ The worker adviser was very courteous and knowledgeable. She went above and beyond representing me. My outcome wouldn't have been the same without her expertise and wisdom.
- ➤ I had not heard of OWA and did not know how to proceed. Could not have had success without you. Very personable service. Thank you.
- ➤ The worker adviser was professional, knowledgeable and presented an accurate case on my behalf. Thanks.
- Maybe hiring more caseworkers so wait times for tribunal dates is shortened to a more reasonable time frame. Five years is a long wait.
- Workers Adviser was well above my expectation in the entire process. Thank you sincerely.
- ➤ I was fortunate in that I had an excellent worker adviser. However it was very apparent that she was working at full capacity and was always busy on the phone and emails. More Worker Advisers would be an improvement. I cannot say enough to compliment her and the office staff. I knew I was in the best hands from the moment I met her.

# **Advisory Services and Case Review**

Table 1 shows the number of new requests for service involving both summary advice and requests for representation services during the past five years.

The OWA had 8,791 new requests for service, during the 2017-2018 fiscal year, an increase of 8% from previous year, but 26% less than the 11,082 in 2015-2016. This likely reflected the continuing decline of new claims to the WSIB which is working its

way through the system. 1,699 workers requested representation services. This was a decline of 2% from 2016-2017, which may show that a smaller proportion of injured workers contacting OWA required representation services.

In 2017-2018, the OWA completed 1,048 case reviews, compared to 1,165 in 2016-2017, but still well above the low from 2015-2016, when case processing was most affected by the high WSIAT inventory.

To avoid delay in dealing with priority cases such as terminal occupational disease or occupational disease clusters, OWA offered immediate case reviews in 2017-2018 to 207 workers whose situations met the criteria for case prioritization, an increase of 14% from 2016-2017, and an increase of 63% from 127 priority cases in 2015-2016.

**Table 1: New Requests for Service and Case Reviews** 

|  | 13-14  | 14-15  | 15-16  | 16-17 | 17-18 | Change from 16-17 to 17-18 |
|--|--------|--------|--------|-------|-------|----------------------------|
| Number of New Requests for Service*                    | 13,881 | 13,164 | 11,082 | 8,195 | 8,791 | 8%                         |
| Number of New Requests<br>Resolved with Summary Advice | 11,150 | 10,510 | 6,276  | 4,321 | 4,772 | 9%                         |
| Number of Requests for Representation**                | 2,523  | 2,382  | 2,421  | 1,738 | 1,699 | (2%)                       |
| Number of Cases Reviewed for Representation            | 2,473  | 2,386  | 871    | 1,166 | 1,048 | (11%)                      |
| Number of Cases Selected for Representation**          | 1,471  | 1,479  | 526    | 638   | 617   | (3%)                       |
| Number of Cases Declined Representation                | 1,002  | 1,025  | 345    | 528   | 431   | (18%)                      |
| % of Cases Reviewed which are offered Representation   | 59%    | 62%    | 60%    | 55%   | 59%   | 4%                         |

<sup>\*</sup>Note that the sum of "Number of New Requests Resolved with Summary Advice" and "Number of Cases Reviewed for Representation" does not total the "Number of New Requests for Service." This is because the "Number of Cases Reviewed for Representation" includes only those reviews completed during the fiscal year, and not reviews initiated, but still in progress, as of March 31.

#### Case Review

When clients contact the OWA because they have received a WSIB decision which they want to appeal, the file is assigned to a worker adviser for a case review. The purpose of this review is to determine if there is sufficient evidence to support an appeal.

The OWA offers representation services in cases where:

 the entitlement issue is valued at more than the equivalent of four weeks of wage loss benefits;

<sup>\*\*</sup> The number of workers requesting representation services found in Table 1 (1,699) is the number of new workers in 2017-18 who requested a case review for possible opening for representation services.

- the issue(s) are complex enough to require the assistance of a skilled and knowledgeable representative; and
- sufficient evidence is available to support a reasonable chance of success in the appeal process. This does not mean that the case is guaranteed to succeed but it does mean that a worker adviser must find enough evidence and/or legal grounds to justify an appeal.

The OWA does not represent in cases with straight forward, single issue appeals involving a non-economic loss (NEL) increase, commutation of a pension, or an employer's request for Second Injury Enhancement Fund (SIEF) relief, although we do provide information and support to workers who wish to represent themselves. The OWA will also not represent in cases where the only issue is a challenge of a WSIB security restriction decision.

As noted above, the proportion of cases reviewed which were accepted for representation increased by 4% in 2017-2018 from the 2016-2017 level, to 59%. This was a positive development, which brought OWA back to the historic range of acceptance rates.

#### Representation Files

If the OWA, at the conclusion of the case review, determines that the case meets the criteria for service, an offer of representation is made.

Following a surge of new requests for representation beginning in 2011-2012, OWA experienced a steady increase in the number of its representation cases which were at the WSIAT level. By the beginning of 2015-2016, over 1600 cases were at WSIAT versus the ideal level of around 650. This mirrored the growth of WSIAT's overall case inventory, which resulted in significant increases in the time needed to resolve appeals at that level. As a response, OWA maintained a relatively high full representation caseload, in the 3600 – 3700 range, so that work on some cases could proceed while a significant number of others waited at WSIAT. It became clear by 2014-2015 that these higher caseloads were becoming increasingly difficult to manage. Delays in case reviews and assignment for representation were increasing. OWA management determined that the ideal level of representation cases would be approximately 50 cases per worker adviser, which meant around 2500 active cases based on a complement of 51 worker advisers. OWA moved towards this target beginning with 2015-2016, so that by the time that the WSIAT inventory reached the target level, average caseloads would be lower and more sustainable as well.

Figure 1 documents the success of these efforts, with representation caseload falling steadily over the past three fiscal years to essentially reach the target level by the end of 2017-2018. This, combined with the continuing reduction in WSIAT appeals

inventory reported above, positions OWA for potentially improved case turnover in 2018-2019.

# **Total Case Inventory**

The OWA is committed to providing quality and timely service to all clients who contact the office. Unfortunately, the demand for representation services is high and OWA sometimes may not have a worker adviser immediately available to open a file at the conclusion of the case review process. Specifically, until 2015-2016, following a case review, workers' cases were placed on a waiting list for representation service pending availability of a Worker Adviser. During the years prior to 2012-2013, this two stage system did not result in overall lengthy delays, because cases were being processed through the system in a reasonable timeframe, including many case resolutions at the WSIB operating level and internal appeals level. However, as the proportion of appeals at the WSIAT level grew, delays began to develop at both the case review and case assignment stages; consequently, case inventory at those stages grew. (Documented in Figure 1).

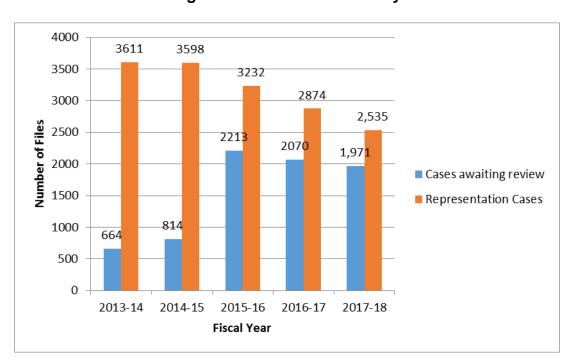
As of April 1, 2015, there were a total of 607 cases in the case review and case assignment stages, some of which had experienced delays of up to two years. In response, OWA began implementing its new service delivery model, which would require a delay in service at the initial stage, with case reviews taking place only when a worker adviser was available to accept the representation case, when assessed as having a reasonable chance of success.

During the transition period from the former procedure to the new one, the number of cases awaiting file review grew significantly, resulting from three main factors:

- 1. the focus on WSIAT inventory reduction beginning in 2015-2016, which took resources away from the frontline work but led to the major success documented in this report.
- 2. the need to reduce the representation caseload by around one third, which meant that for the past three fiscal years, it was challenging to take on new cases for review.
- 3. the impact of major staff turnover, as the majority of the worker adviser complement was renewed from 2013-2014 through 2017-2018. This included the transition to licencing by the Law Society of OWA staff providing legal services. Most Worker Advisers are now licensed by the Law Society of Ontario. All newly hired Worker Advisers must be licensed.

Figure 1 shows the evolution of total case inventory over the past five years, including the transition to a new service delivery model in 2015-2016. For each year, the bar graph on the left side is the total of cases awaiting case review or case assignment. On the right hand side is the total representation caseload. For case review inventory, a conversion has been done to allow an "apples and apples" comparison with the 2015-2016 annual report chart, which reported only one number – the number of workers

awaiting case review. By March 31, 2016, the number of workers awaiting case review had increased to 2213 while the number of representation cases was still well above the target level of 2500. In 2016-2017, along with reducing its WSIAT appeals inventory, OWA succeeded in reducing the number awaiting case review to 2070 – a reduction of 6.5%; along with a major reduction in representation caseload. 2017-2018 was a turnaround year for total case inventory, as the case review inventory declined again and the representation caseload essentially reached the target level. This positioned OWA very well to make major progress reducing total case inventory further in future years.



**Figure 1: Total Case Inventory** 

#### **Decisions obtained for OWA clients**

In 2017-2018, OWA obtained a total of 1,741 decisions from the adjudication and appeals levels of the WSIB and from WSIAT, a decrease of 16% from the previous year's total of 2,017 (see Table 2). The overall reduction resulted mainly from the slowdown in case processing in 2017-2018 as OWA focused on reducing its WSIAT appeals inventory and on reducing the overall inventory of representation files. The reduction in overall decision numbers was counter-balanced by an increase in outcomes at WSIAT by 25% from 2015-2016 levels, from 417 to 552. Generally speaking, outcomes at WSIAT require substantially more work by worker advisers than work at the operations level and appeals level of WSIB.

The 1,741 decisions obtained in 2017-2018 involved a total of 3,121 issues versus 3,466 in 2016-2017, a reduction of 11%. Overall success rate increased significantly, from 51% in 2016-2017 to 54% in 2017-2018. This was the highest level in the past five years and up dramatically from 39% in 2013-2014. It is likely that the higher success rate at the operating level reflected the fact that worker advisers significantly reduced the number of cases taken back to that level for reconsideration, choosing only those where they determined that there was a significant chance of success. There was a modest increase of 2% in success rate at the WSIB appeals level but a small decrease of 4% at WSIAT. The increase in success rate at WSIB will also mean that a smaller proportion of OWA cases will ultimately progress to the WSIAT level, which should help moderate case inventory there.

**Table 2: Decisions by Level and Success Rate** 

| Decisions by Level                        | 2013-14 | 2014-15 | 2015-16 | 2016-17 | 2017-18 | Change<br>2016-17 to<br>2017-18 |
|---|---------|---------|---------|---------|---------|---------------------------------|
| WSIB – Operating<br>Level                 | 1,669   | 1,433   | 1,085   | 919     | 783     | (15%)                           |
| % of Issues Allowed at Operating Level    | 31%     | 32%     | 36%     | 45%     | 51%     | 6%                              |
| WSIB – Appeal<br>Level                    | 1,178   | 927     | 762     | 601     | 406     | (32%)                           |
| % of Issues Allowed at the Appeals Branch | 44%     | 41%     | 44%     | 45%     | 47%     | 2%                              |
| WSIAT                                     | 378     | 386     | 417     | 497     | 552     | 11%                             |
| % of Issues Allowed at the WSIAT          | 60%     | 57%     | 65%     | 68%     | 64%     | (4%)                            |
| TOTAL DECISIONS FROM ALL LEVELS           | 3,225   | 2,746   | 2,264   | 2,017   | 1741    | (14%)                           |
| TOTAL ISSUES IN DECISIONS FROM ALL LEVELS | 5,842   | 4,364   | 3,783   | 3,466   | 3121    | (10%)                           |
| Total % of Issues Allowed at all Levels   | 39%     | 39%     | 45%     | 51%     | 54%     | 3%                              |

# REPORT ON THE OWA'S OCCUPATIONAL HEALTH AND SAFETY REPRISALS MANDATE

#### **Description of Services**

Under its occupational health and safety reprisals mandate, the OWA assists non-union workers who may have experienced a reprisal for exercising their workplace health and safety rights. Services provided include:

- Information and advice
- Representation in complaints under s. 50 of the Occupational Health and Safety Act (OHSA)
- Educational services

The OWA also works with the Ministry of Labour and community partners to ensure the system serves the needs of non-union workers.

Services are delivered by the Occupational Health and Safety Reprisals Program (OHSRP) from the OWA's head office in Toronto. Most workers contact the program through its province-wide, toll-free phone number. Worker representatives travel to attend proceedings when they are held outside of Toronto.

The OHRSP provides escalating levels of service depending on the situation and needs of the worker. Some workers' inquiries are resolved by through information or advice (advisory services), while others may require formal legal representation (representation services).

#### **Advisory Services**

Advisory services are resolved at either of the following levels:

- Summary advice, in which a worker is provided with information about their rights or a referral to a more appropriate source of assistance
- Intake, in which a worker receives a comprehensive telephone consultation with a worker representative, who may provide legal advice, a referral, or offer to represent

#### **Representation Services**

When representation services are provided, the worker formally retains the OWA as his or her legal representative. The OHSRP provides legal representation at all stages of a reprisal complaint to the OLRB, including:

- Preparing and filing an application to the Ontario Labour Relations Board (OLRB)
- Negotiating a settlement prior to formal mediation (early dispute resolution)
- Representation at formal mediation conducted by the OLRB
- Representation at hearings before the OLRB
- Enforcement of minutes of settlement and OLRB orders.

#### **Achievements**

#### **Summary of Achievements**

Demand for representation services saw a significant increase in 2017-2018. A number of key measures were the highest in the history of the program. Worker representatives completed 295 intakes, the most since the current service delivery model was adopted and a 29.4% increase over last year. They also filed more applications to the OLRB (78) than in any prior year, an increase of 39.3% over 2016-2017. A total of 80 representation cases were resolved, representing a 25% increase over last year and the second highest number in the history of the program.

New requests and summary advice declined somewhat (15.8% and 13.8% respectively) from last year's all-time high. These numbers are consistent with the pattern of variability seen over the past five years, however, and there is no reason to they are indicative of a reduction in demand for service. Finally, client feedback indicates that workers who receive representation services from the OHSRP continue to be very happy with the quality of assistance they received.

# **Advisory Services**

### **New Requests and Summary Advice**

In 2017-2018, the number of new requests and summary advice declined 15.8% and 13.8% respectively over last year, which was an all-time high. Historically, both numbers have fluctuated up and down year-to-year and the values for 2017-18 are well within the range seen in past years. Despite the decline in new requests overall, more requests were forwarded to the intake stage than any year since the first year of the program.

Table 3: New Requests and Summary Advice

|                          | 2013- | 2014- | 2015- | 2016- | 2017- | Annual |
|--------------------------|-------|-------|-------|-------|-------|--------|
| Disposition              | 14    | 15    | 16    | 17    | 18    | Change |
| New requests             |       |       |       |       |       |        |
| New Requests<br>Received | 894   | 1137  | 906   | 1145  | 964   | -15.8% |
| Summary Advice           |       |       |       |       |       |        |
| Forward to Intake        | 264   | 246   | 227   | 224   | 271   | +21.0% |
| Referral                 | 305   | 451   | 290   | 419   | 382   | -8.8%  |
| Info                     | 155   | 213   | 191   | 248   | 246   | -0.8%  |
| No Further Contact       | 98    | 172   | 184   | 224   | 62    | -72.3% |
| Withdraw Service         | 1     | 0     | 0     | 0     | 0     | 0.0%   |
| Total                    | 823   | 1082  | 892   | 1115  | 961   | -13.8% |

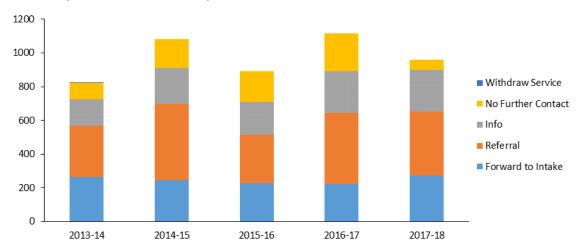


Chart 2: Disposition of New Requests for Service

#### Intake

The number of intakes completed by the program increased significantly (29.4%) from 2016-2017 to 2017-2018. This is the highest number of intakes completed since the current service delivery model was adopted.

**Table 4: Intake Outcomes** 

| Total              | 269     | 246         | 234         | 230         | 295         | +29.4%           |
|--------------------|---------|-------------|-------------|-------------|-------------|------------------|
| Withdraw Service   | 0       | 2           | 0           | 0           | 0           | +0.0%            |
| No Further Contact | 19      | 12          | 5           | 2           | 9           | +350.0%          |
| Referral           | 90      | 80          | 60          | 87          | 100         | +16.3%           |
| Offer to Represent | 102     | 83          | 72          | 72          | 94          | +32.4%           |
| Advice             | 58      | 69          | 97          | 69          | 92          | +33.3%           |
| Disposition        | 2013-14 | 2014-<br>15 | 2015-<br>16 | 2016-<br>17 | 2017-<br>18 | Annual<br>Change |
|                    |         |             |             |             |             |                  |

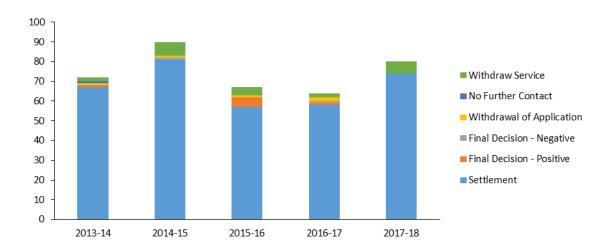
#### Representation Services

The program achieved resolutions in 80 representation cases in 2017-2018. This is an increase of 25.0% over the previous year and the second highest number since the program's inception. Of these 80 outcomes, 74 (92%) were settlements in which the worker received remedy of some kind.

Table 5: Representation Outcomes

|                           | 2013- | 2014- | 2015- | 2016- | 2017- | Annual  |
|---------------------------|-------|-------|-------|-------|-------|---------|
| Outcome                   | 14    | 15    | 16    | 17    | 18    | Change  |
| Settlement                | 67    | 81    | 57    | 58    | 74    | +27.6%  |
| Final Decision - Positive | 1     | 0     | 5     | 1     | 0     | -100.0% |
| Final Decision - Negative | 0     | 1     | 0     | 1     | 0     | -100.0% |
| Withdrawal of Application | 1     | 1     | 1     | 2     | 0     | -100.0% |
| No Further Contact        | 1     | 0     | 0     | N/A   | 0     | 0.0%    |
| Withdraw Service          | 2     | 7     | 4     | 2     | 6     | +200.0% |
| Total                     | 72    | 90    | 67    | 64    | 80    | +25.0%  |

Chart 3: Representation Outcomes



#### **Caseload Inventory**

Table 5 shows the total caseload inventory for the OHSRP as of March 31, 2018. OHS reprisal cases are continually active and resolve relatively quickly. This results in high turnover as cases close and new ones open. Consequently, caseload inventory per staff member tends to smaller than for the workplace insurance program.

Table 6: Total Caseload Inventory on March 31

| File Status    | 2016 | 2017 | 2018 | Annual<br>Change |
|----------------|------|------|------|------------------|
| New request    | 38   | 65   | 46   | -29%             |
| Intake         | 20   | 23   | 18   | -22%             |
| Representation | 28   | 30   | 29   | -3%              |
| Total          | 86   | 118  | 93   | -21%             |

#### **Client Satisfaction Levels**

Representation clients consistently expressed a very high rate of satisfaction with the service provided by the OHSRP. In 2017-18, a significant majority of file closure survey respondents reported that they were "very satisfied" overall with the service they received from the OHSRP (the highest rating on the survey). The response rate on these file closure surveys is approximately one in five.

#### **Educational Services**

In addition to answering workers' questions about health and safety reprisal complaints by phone, the OHSRP provides educational resources though the OWA website. The reprisals section of the OWA website contains information on:

- What health and safety reprisals are
- How workers can enforce their rights
- How the OWA can provide assistance
- Other organizations that can provide assistance

#### **Outreach and Partnerships**

In 2017-2018, outreach for the OHSRP continued to focus on system partners to help ensure better communications and referrals for workers within the occupational health and safety system. Program staff also continued to develop relationships and work cooperatively with community legal clinics and organized labour.

# **APPENDIX A – FINANCIAL REPORT FOR THE FISCAL YEAR 2017-2018**

Figures are in \$000's

| Account                                | Final<br>Budget* | Total Actual Expenditures** | Variance | Variance<br>% |
|--|------------------|-----------------------------|----------|---------------|
| Salary & Wages                         | 7,783.1          | 7,009.2                     | 773.9    | 9.9%          |
| Benefits                               | 1,790.1          | 2,073.6                     | (283.5)  | (15.8%)       |
| Other Direct Operating Expenses (ODOE) |                  |                             |          |               |
| Transportation & Communications        | 300.0            | 345.4                       | (45.4)   | (15.1%)       |
| Services (incl. Office Leases)         | 1,416.80         | 1,790.0                     | (373.2)  | (26.3%)       |
| Supplies & Equipment                   | 100.0            | 84.5                        | 15.5     | 15.5%         |
| ODOE TOTAL                             | 1,816.8          | 2,219.9                     | (403.1)  | (-22.2%)      |
| OWA TOTAL                              | 11,390.0         | 11,302.7                    | 87.3     | 0.8%          |

<sup>\*</sup> Final Budget = Printed Estimates+/- TBO, re-alignment of funds by Standard Account.

<sup>\*\*</sup> Total Actual Expenditures including Office Leases

# APPENDIX B- NOTEWORTHY WORKPLACE SAFETY AND INSURANCE APPEALS TRIBUNAL (WSIAT) DECISIONS BY OFFICE OF THE WORKER ADVISER STAFF

The WSIAT summarizes its significant decisions and identifies those that are especially important as noteworthy. A selection of noteworthy decisions resulting from OWA representation is summarized below.

#### **Occupational Disease**

Decision No. 1290/17

The worker was granted entitlement for gastrointestinal cancer due to his workplace exposures to asbestos dust. However, entitlement for multiple myeloma due to benzene exposure was denied because there is a lack of scientific evidence showing a causal relationship between benzene and multiple myeloma.

Decision No. 1861/10

Despite finding that the worker was exposed to high levels of silica in his work over a 35 year period, the Panel found that it was unlikely that the worker's lung cancer was due to workplace exposures. The Panel confirmed the WSIAT's line of cases that require at least a doubling of the cancer risk for an exposure to be compensable. The worker was exposed to silica over 35 years, but, because the epidemiology showed an increased risk of lung cancer due to silica exposure to be between 28% and 33%, entitlement was denied.

#### **Suitable Work**

Decision No. 215/17

The accident employer offered the worker modified work on a different shift; she declined. The Vice-chair held that, even though the time slot for a shift is not usually a factor that makes a modified job unsuitable, in this case it did. The worker had put forward evidence that the employer could have offered her a modified job on her regular shift but did not because of their hostile attitude towards her. The worker was therefore entitled to loss of earnings benefits for the period at issue.

#### Loss of Earnings (LOE)

Decision No. 1067/17

The worker completed an LMR program with the goal of general office clerk. He was unable to find work in the suitable occupation, but found part-time work as a motel

receptionist. He worked in that job for two years. The Board based his LOE on his actual earnings. At the final LOE review, the worker was unemployed, and the Board based his LOE on deemed full-time earnings of an experienced general office clerk.

Based on the medical evidence of worsening symptoms, the Vice-chair held that the worker could only work part-time. In addition, the worker's vocational history of working in the bush meant that adapting to an office work environment was difficult for him. The Vice-chair concluded that his employment as a part-time motel receptionist was a good indicator of his earning capacity and that his LOE should be based on those earnings.

Decision No. 3147/17

The worker had been working in the suitable occupation but was laid off shortly before the final LOE review. The Board deemed her to have full-time earnings at the median wage for customer service representatives. On appeal, the Vice-chair held that her deemed earnings should be based on her actual earnings before her layoff rather than the median earnings, which were substantially greater.

Decision No. 3034/17

The worker, a machine operator, was injured in 2005 and permanently laid off an accommodated job in 2013. The final LOE review date was in 2011. The Vice-chair found that the worker and employer were co-operating in return to work at the time of the lay off and that the worker's employability was limited by his work injury. Accordingly, the worker was entitled to further benefits.

#### Non-economic Loss

Decision No. 3182/16

The Vice-chair reversed the Board's decision to reduce the worker's NEL from 21% to 12% for a pre-existing condition. The worker injured his rotator cuff in 2007 and a CT scan at that time showed degenerative changes. In a workplace accident in 2010, the worker's shoulder ligaments were torn and his shoulder dislocated. The Vice-chair found that the 2007 injury was not a pre-existing impairment because the worker was asymptomatic following recovery from the 2007 injury and had been doing heavy work for the employer for a year prior to the 2010 injury.

#### Jurisdiction

Decision No. 1704/05

The worker injured in his ankle in 1981 and developed a low back problem in 1999. He claimed entitlement for his low back and the Board granted healthcare benefits but denied ongoing entitlement. The ARO dismissed the appeal, denying initial entitlement. The worker argued that the ARO decided the wrong issue; the issue should have been ongoing entitlement, rather than initial entitlement, and so the issue that was properly before the Tribunal was ongoing entitlement. The Vice-chair rejected this argument, holding that the Tribunal's jurisdiction is to hear appeals from final decisions of the Board. Since the ARO decision represents the Board's final decision, the issues it decides are the proper issues in front of the Tribunal.

#### Decision No. 1173/15ER

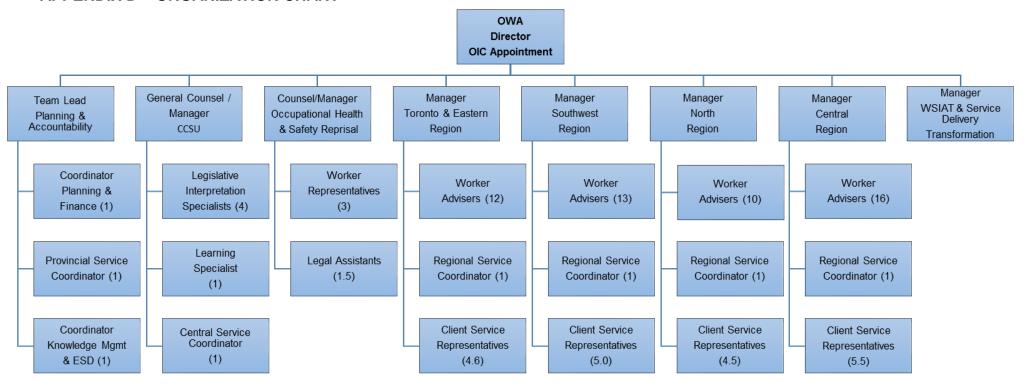
While this decision did not appear on the Tribunal's "Noteworthy Decisions" list, in our view, it is noteworthy as it is the first decision rendered by the Chair and it marks a change in the analysis of time extension applications.

In the decision, the Chair first granted a reconsideration of an earlier Tribunal decision to deny an extension of time to appeal. The time limit to appeal had been missed by 19 days because of mistakes made by the worker's representative. The Chair granted the time extension request because the time limit was missed through no fault of the worker, the appeal was filed quickly after the discovery of the error, and the delay in filing the appeal was short.

# **APPENDIX – OWA OFFICE LOCATIONS**

| TORONTO & EASTERN<br>REGION  | SOUTHWEST REGION        | NORTH REGION                 | CENTRAL REGION                |
|------------------------------|-------------------------|------------------------------|-------------------------------|
| HEAD OFFICE & TORONTO OFFICE | LONDON OFFICE           | SAULT STE. MARIE<br>OFFICE   | DOWNSVIEW<br>OFFICE           |
| 123 Edward Street            | 495 Richmond Street     | 70 Foster Drive              | 145 Sir William Hearst Avenue |
| Suite 1300                   | Suite 810               | Suite 480                    | Suite 125                     |
| Toronto, ON M5G 1E2          | London, ON N6A 5A9      | Sault Ste. Marie, ON P6A 6V4 | Downsview, ON M3M 0B6         |
| SCARBOROUGH OFFICE           | WATERLOO OFFICE         | THUNDER BAY OFFICE           | HAMILTON OFFICE               |
| 305 Milner Avenue            | 155 Frobisher Drive     | 435 South James Street       | 119 King Street West          |
| Suite 918                    | Unit G (213)            | Suite 335                    | 13 <sup>th</sup> Floor        |
| Scarborough, ON M1B 3V4      | Waterloo, ON N2V 2E1    | Thunder Bay, ON P7E 6S7      | Hamilton, ON L8P 4Y7          |
| OTTAWA OFFICE                | WINDSOR OFFICE          | TIMMINS OFFICE               | ST. CATHARINES OFFICE         |
| 347 Preston Street           | 100 Ouellette Avenue    | 60 Wilson Avenue             | 301 St. Paul St.              |
| 3 <sup>rd</sup> Floor        | 10 <sup>th</sup> Floor  | Suite 303                    | 9 <sup>th</sup> Floor         |
| Ottawa, ON K1S 3H8           | Windsor, ON N9A 6T3     | Timmins, ON P4N 2S7          | St. Catharines, ON L2R 7R4    |
|                              | SARNIA SATELLITE OFFICE | ELLIOT LAKE OFFICE           | MISSISSAUGA OFFICE            |
|                              | 171 Kendall Street      | 50 Hillside Drive North      | 10 Kingsbridge Garden Circle, |
|                              | Sarnia, ON N7V 4G6      | Elliot Lake, ON P5A 1X4      | Suite #512                    |
|                              |                         |                              | Mississauga, ON L5R 3K6       |
|                              |                         | SUDBURY OFFICE               |                               |
|                              |                         | 159 Cedar Street             |                               |
|                              |                         | Suite 304                    |                               |
|                              |                         | Sudbury, ON P3E 6A5          |                               |

#### **APPENDIX D – ORGANIZATION CHART**



2017–2018 OWA STAFF ALLOCATION = 97.1 FULL TIME EQUIVALENTS (FTE)