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**Official Report
of Debates
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Tuesday 25 November 2014

**Journal
des débats
(Hansard)**

Mardi 25 novembre 2014

**Standing Committee on
Government Agencies**

Intended appointments

**Comité permanent des
organismes gouvernementaux**

Nominations prévues

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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON GOVERNMENT AGENCIES

COMITÉ PERMANENT DES ORGANISMES GOUVERNEMENTAUX

Tuesday 25 November 2014

Mardi 25 novembre 2014

The committee met at 0901 in committee room 1.

INTENDED APPOINTMENTS

MR. NICHOLAS PERNAL

Review of intended appointment, selected by official opposition party: Nicholas Pernal, intended appointee as member, Landlord and Tenant Board (Social Justice Tribunals Ontario).

The Chair (Mr. John Fraser): I call the meeting to order. Good morning, everybody. We don't have any subcommittee reports this morning, so we'll move directly to our intended appointments.

Our first intended appointee today is Nicholas Pernal. He is being nominated as a member of the Landlord and Tenant Board (Social Justice Tribunals Ontario). Mr. Pernal, can you please come forward and take a seat. Welcome and thank you very much for being here. You may wish to make a brief statement. Members of each party will have 10 minutes to ask you questions. Any time that you use for a statement will be taken from the government's opportunity to ask questions. Mr. Pernal.

Mr. Nicholas Pernal: Good morning. First off I'd like to thank the committee for giving me the opportunity to appear before it. It is indeed an honour to be considered for the appointment to the Landlord and Tenant Board.

I was told by a good friend of mine who I've taken an adjudication course from that one of the hardest situations to be in is being a witness, and that's what I find myself in this morning. So basically what I'm going to try to do is I'm going to try to explain to you folks a bit of who I am and what I am, a bit beyond the normal things that I'm led to know that are in your information packages.

One of the other advantages, I think, coming from this merit-based appointment process is the fact that I've already gone for interviews. We've already had questions on things like my skills regarding being able to have issues heard before me, hearing both sides, critical reasoning—all these skills. We've already gone through a bit of that process.

Again, I'm coming from the point today where I'm going to be explaining a bit the things that are not necessarily covered by that, and sort of my life experiences that I've had up to date that are complementary skills for my role as an adjudicator. There are three things I'd just like to touch on: The first one is my experience in environ-

ments with high volumes of applications; secondly, my experience with agencies that have a dual mandate of both enforcement and an educational role with the public; and, thirdly, just a bit touching on some broad cross-cultural awareness issues that I've had and have an opportunity to have over the course of my career.

First off, dealing with an agency or places where we have a huge amount of volume and a huge amount of applications, I've seen this in my time with Service Canada, when I was a citizen-facing officer delivering general services to the broader public. I was working out of an office in Toronto and basically, day in and day out, we had people accessing government services, providing advice to them for SIN, EI applications, old age security and the like.

The challenge there was making sure that we were delivering the same high-quality standards to everyone who walked in the door, be it from when we got there at 8 in the morning to the last person being served at 4:30, or even staying later beyond the normal standard service hours to make sure that they got that.

Also, in my time as a funeral director I was also put in a situation where we are in a very high-tempo environment where people are coming in and we are servicing them in a time of need. From start to finish we have to make sure we get things organized and get things done in an appropriate amount of time, in a very stressful situation for everyone.

Now, the takeaway from that is making sure that there's a quality to the stakeholders that's delivered notwithstanding what sort of flow that you have. I understand one of the things with the Landlord and Tenant Board is that we have some 50 members present there, plus or minus. I think, from the previous year's applications, there were about 80,000 applications. If you do the quick math, that is more than about 1,500 applications per full-time member. Obviously, not all applications are heard by every member of the board, but that's still an enormous amount of volume. One of the things, and one of the skills that I'd like to bring forward to the board, again, in my role in the adjudicative capacity, is bringing that element of knowing how to operate in a high-tempo, high-demand environment.

The second piece that I'd like to touch on is being in an agency that has had both a dual enforcement and education mandate. I served three years as a labour affairs officer with Labour Canada. It used to be called

HRSDC; now it's Employment and Social Development Canada. They change their name every so often. With that, I was enforcing labour standards in federally regulated industries. But unlike some agencies, we have definitely a dual-hat role in that, in terms of not only the enforcement but we are also the faces, not for the public and the stakeholders but for the employers who come to us to ask, "Okay. We want to comply with this legislation. How do we comply with this legislation?"

I feel that it creates a unique operating environment when you are not just solely enforcement or solely providing education or services to the public, because you have to balance that, and you have to balance that credibility, because if you're going into an organization or to an employer all the time with a big stick, or all the time doing reviews, what you don't get is that stakeholder engagement and that stakeholder buy-in. It really is a dual piece, because as much as we have the law, and as much as we have the legislation, part of that legislation is also self-compliance.

Again, I see this a lot with kind of the scheme that's in place with the Landlord and Tenant Board and the protections that are offered under the Residential Tenancies Act. It's definitely something that although there is a compliance element that's enforced by the system in place, there is also an element of a kind of self-compliance: that the parties agree that "These are the laws. These are what we know and we have to live by." But there's an element of self-compliance in with that.

Lastly, what I'd just like to touch on is the fact that I do have a broad base of exposures to a lot of different communities and a lot of different stakeholders. While working in Toronto, I worked in certain priority neighbourhoods as identified by the United Way survey—I think that's the 2007 or 2006 survey as it was at the time—working in areas such as Lawrence Heights and Weston, seeing the families and the diversity and the communities that we got through the door and that we were serving.

Notwithstanding that, there's also the idea that when we have newcomers to Canada, they're people just like you and me, and we have to be aware that with every person who comes through, with every person who accesses these services—we have to make sure that this is being done in an appropriate way, in a culturally sensitive way. Because as much as there is an adversarial system in place at the tribunal level, if you are before an adjudicator or a decision-maker, for some of these people an application to the Landlord and Tenant Board might be the only access they have to the justice system in general. So it's an idea that we need to make sure that all of these services are given to the constituents and to those stakeholders, to make sure that they can get that.

Also one of the things that I bring up and bring to the table with that is that I do have experiences, especially working in the federal sphere, with First Nations communities and, again, doing all the labour standards enforcement. I had the wonderful opportunity of seeing not just newcomers to Canada, but also second- and

third-generation Canadians who are running their family businesses and, over the course of the years, have integrated within the community and made a great success and are living in a great place and a great country.

Just wrapping up, s'il y a des membres du comité qui ont des questions et qui veulent me poser des questions en français, allez-y. Vous pouvez; je suis bilingue, et je peux prendre des questions dans les deux langues officielles. Merci.

The Chair (Mr. John Fraser): Thank you very much, Mr. Pernal. Merci. We'll begin on the government side. You have two minutes.

0910

Mr. Lou Rinaldi: Thank you, Chair. Thank you, Mr. Pernal, for coming in this morning. Quite an impressive resumé, and also from your personal experiences and perspectives, I think it's good that you've taken an interest in this position at the Landlord and Tenant Board. I'm sure, if you're successful, you'll do a great job. Once again, thank you for all you've done in the past, and hopefully you'll contribute to the board with your knowledge.

The Chair (Mr. John Fraser): Thank you very much, Mr. Rinaldi. We'll move to the official opposition.

Mr. Jim McDonell: Thank you for coming today. Now, I understand you've had some experiences as a landlord or—is that right?

Mr. Nicholas Pernal: I'm sorry, sir. I didn't hear the question.

Mr. Jim McDonell: You've had some experience prior as being a landlord?

Mr. Nicholas Pernal: Yes, I have. Driving my entrepreneurial spirit when I first purchased my first house, I looked at my mortgage and said, "Well, I have this." I was still living in the Toronto area and, the price of houses in Toronto being what they were, I rented a part of my house. Luckily for me, and kind of in hindsight, I'm going back and saying that I actually had a very good experience. There weren't too many problems either on the administrative side or the business side of it. But now looking back on the whole situation, I do find myself very fortunate because that's something that could have been much different. As of right now, I have a property in Montreal, because I work in Ottawa, but my house is in Montreal right now. I've decided not to rent it out just because I don't necessarily want to worry about some of the issues of either getting a bad tenant in or the like; and that's a personal choice that I made.

But it's definitely something where, when I started that venture, I didn't quite realize how much work and how much effort was necessary or would have been necessary. Maybe it was me being a bit naive about it, but I sure learned a lot very quickly in the very short time that I had when I was a landlord.

Mr. Jim McDonell: So I guess, just in your experience, did you have any issues with having to use the Landlord and Tenant Board?

Mr. Nicholas Pernal: No, I did not have any issues as a landlord where I made applications to the board or whatnot.

Mr. Jim McDonell: I guess we see, every day, people coming in—both sides, tenants and landlords—with issues that sometimes have to go or most often have to go to the tribunal. Most often, it's around damage or non-payment. Do you see anything that your experience brings to these hearings or an attitude you might have towards them?

Mr. Nicholas Pernal: Well, specifically when we're looking at my experience, I mean, I do have a very good grounding in ADR. Unlike some of the other components of the Social Justice Tribunals Ontario, I'm made aware that the members are doing more purely on the adjudicative capacity whereas some of the other tribunals have a mixed mandate where the members are actively involved in mediation. I know there is full-time mediation staff. I think that's one of those things where if you're getting people in and you're able to use those mediation services—because, again, I do have a lot of experience in that—it's a very good thing, because any time you get a chance to have a mediated settlement between the parties that works for them, it's 10 or 20 times better than an imposed settlement by a neutral third party.

Mr. Jim McDonell: One more question: There's an agreement among landlords that the process of collecting rent arrears and eviction of chronic non-payers is exceptionally costly, a figure of about \$5,000 of lost income, legal fees, damages and other costs. One of our issues around housing is that we need a fair system that encourages landlords, makes sure that they can keep their costs down, which allows them to keep rent down, because housing is important and it needs to be as cheap as possible. Issues of nonpayment or damage have to be figured in, so then it ends up driving the costs up, and the good tenants end up paying for that, because it's all part of the picture. Any solutions you see to getting those costs down so that we can actually—if dispute costs are down, then the overall cost can be lowered as well. Then, of course, all the renters benefit, as well as the landlords.

Mr. Nicholas Pernal: Unfortunately, that's kind of out of my area of expertise. I'm being proposed as an appointment as a member of the board in an adjudicative capacity, so in terms of things like operations and in terms of policy, we're not really touching on that. What we're touching on is the application of the law as it's written and, basically, the decisions of the application before us.

The other thing too is that a lot of my expertise has not been in the field of what we'll call residential tenancy law. My field of expertise is more employment standards and labour, so I don't think I'd be able to provide you with any meaningful comment or meaningful solutions regarding things regarding costs, costs in general or costs to the landlord, because I'm just not knowledgeable enough, specifically on those issues, to comment on them.

Mrs. Julia Munro: I just wanted to ask—and perhaps this is something you could answer after you've had the appointment for some time, but the issue around the percentage of people: Obviously, thousands and thou-

sands of people are tenants, and everything goes along smoothly. Do you have any sense of what percentage of the tenant population gets into these difficulties?

Mr. Nicholas Pernal: Again, that's not something that I've personally researched, so I wouldn't be able to guess. I think that would probably be a better question for research services, to provide you with that information, because like I said, I have not done any personal research on a percentage basis or a per capita basis on how many applicants or anything like that.

Again, being outside of the board, I would not have access to those figures or any statistics, other than what's published in the normal general reports. Quite frankly, again, because I'm coming from a different area, a different sphere of expertise, these are not issues that I have done in-depth analysis on.

Mrs. Julia Munro: Right, and that's why I prefaced my comments that way, recognizing that it was just a possibility. But thank you.

The Chair (Mr. John Fraser): Thank you very much, Mrs. Munro. We'll move to my colleague Mr. Gates.

Mr. Wayne Gates: Thanks very much for coming. Just a few questions: You said that you were a landlord at one time. Maybe you could explain to me what a bad tenant is.

Mr. Nicholas Pernal: Well, I think that's a very subjective term, depending on who's making the evaluation, but obviously from a business perspective side, I think the term "bad tenant" gets tossed around. It may mean different things for different people.

What I would consider a bad tenant would be someone, possibly, who is either damaging the unit or who wasn't paying the rent. Basically, how I would be looking at it would be from the business sense, where if I had someone who was occupying one of my units and was either causing damage, not paying the rent or causing it to not be harmonious with the other people, either in the building or in the neighbourhood—we could generally group this into the term of "bad tenant."

But I don't think that it's wise to make generalizations. What one person may think is a bad tenant may not necessarily be true for another. For example, I may decide that I don't like people with cats or I don't like people who have plants. That could be, in my view, making someone a bad tenant.

When you look at it objectively—and I think that's what the test is when you go before the board or when you go before an adjudicator. What you have there at that juncture in time is an objective test based on the application before you, based on the facts of the case presented by the parties, and the parties have a chance and an opportunity to test the evidence that either side has given. The term "bad tenant" at that point in time doesn't factor into it, because it could be a bad tenant, a blue tenant, a green tenant or a pink tenant. That doesn't factor into the ultimate decision that is being made.

0920

Mr. Wayne Gates: I appreciate your answer, but your comment was that you had property in Montreal and you

didn't want to rent it out in case you had tenant problems. I just wanted to make sure that if you're going on a board or an agency, I don't want you to think that everybody who is a renter is going to be a bad tenant. I just don't think that's the way it is, because I can tell you, my office spends a lot of time on these issues, particularly in Niagara Falls, where we have a lot of people who are renting—obviously affordability problems. So we do have a lot of calls on this particular issue, for sure—but just from your comment.

Just on the comment that was asked, on page 2 of the report that we got, there is a breakdown on what is filed by landlords and what is filed by tenants. A follow-up to that question: Maybe you could explain to me what a good tenant would be, because sometimes there are bad landlords too.

Mr. Nicholas Pernal: Yes, and it's not mutually exclusive. I think within any subset of the population we have—and now, when we're talking about good and bad people, we start getting into kind of the ethical sphere of what your value system is and how you classify people. But just as in any walk of life, there are people who—perhaps good and bad is an oversimplification. Maybe a better term would be something that's more or less advantageous to the individual.

But as you said, there are tenant applications and it's a feature of the system that the Residential Tenancies Act is there in place. It's there as remedial legislation to make sure that there are protections afforded to individuals who are renting. These people are definitely important members of society. Housing is a very important issue for individuals and not everyone is in a position where they can afford to outright purchase a home, so they live somewhere and they rent.

Even on that note, I'm currently renting a residence in Ottawa as well, so I myself am also a renter.

Mr. Wayne Gates: I think all people are important to society, but that's just me.

What has attracted you to apply for the position?

Mr. Nicholas Pernal: I'm sorry, I didn't hear your question.

Mr. Wayne Gates: What has attracted you to apply for this position?

Mr. Nicholas Pernal: When I started applying for this position, what I was looking for ultimately was to change a bit in my career, more towards the adjudicative stream. Originally, I applied to see what the landscape is, to test the landscape and to go in and look at what was going on and perhaps get an interview.

That kind of changed a bit once I did get an interview and I decided to spend some time at the Landlord and Tenant Board. What I found there was amazing because what goes on there kind of fits my version of what I like to see in an agency or in a body. They're actively promoting the use of alternative dispute resolution. There are low barriers in terms of formalities for the people who are appearing before the adjudicative body and, altogether, these things are just—you know, not trying to be too clichéd, but I kind of fell in love with the place. It went

from something that I was doing on a pro forma basis to some place where I actually really want to work and really want to be.

Mr. Wayne Gates: Maybe you could explain your skills that you bring to the position.

Mr. Nicholas Pernal: Regarding my skill set, in my current role I do mainly presentations before various bodies, administrative tribunals, on behalf of a bargaining agent in the federal public sector. Basically, in that role, I have the skills of knowing how to present before these boards and agencies. I also have specific courses in mediation and negotiation and also presenting and going forward in adjudication. I've presented and represented cases dealing with files before the Ontario Human Rights Tribunal, dealing with the Ontario Labour Relations Board in private adjudication and before the Public Service Staffing Tribunal and the Public Service Labour Relations Board.

Mr. Wayne Gates: Just to follow up from your response, what bargaining agent were you with?

Mr. Nicholas Pernal: I'm currently with PIPSC, the Professional Institute of the Public Service of Canada.

Mr. Wayne Gates: And you took courses on mediation?

Mr. Nicholas Pernal: Yes.

Mr. Wayne Gates: How long were the courses?

Mr. Nicholas Pernal: The course was a standard four-day course. That's what I will call formal mediation training. Also in my previous role, when I was working as an inspector under part III of the Canada Labour Code, basically, 50% of our work was mediating unjust dismissal cases that were brought by individuals.

When we talk about "formal" formal training, I also had what I'll call on-the-job training through my previous experience. That was delivered by HRSDC at the time through my training as an officer under part III of the code and three years' experience mediating unjust dismissal cases.

Mr. Wayne Gates: So the mediation—how many cases would you have done?

Mr. Nicholas Pernal: I can't give you an exact number because I'd have to look at my files, but on average we were running about 120 to 140 cases a year, both in what we'll call labour standards and unjust dismissal. The cases were about—we had about a 50-50 mix, more or less, so I'd say over a three-year period maybe somewhere around 150. I'm ballparking this, but around that range.

Mr. Wayne Gates: Just a question to follow up, because I'm quite familiar with mediation and bargaining, just from my past life. The mediation part of it: There were that many cases within your bargaining agent, or were these outside that?

Mr. Nicholas Pernal: Within the bargaining agent itself, in my current role, a lot of the mediation work we do is either in a formal mediation setting—one of the boards I appear before the most is the Public Service Labour Relations Board—they have specific mediation services, which is a separate set—and the Public Service

Staffing Tribunal, which has kind of member mediators. So a lot of applications don't necessarily go to full-blown hearings because we resolve them in mediation.

There's also the mediation that's done as any member of a labour organization does within the workforce regarding mediating disputes and trying to solve them at a lower level, between management and the workers, at that juncture in time as well.

Mr. Wayne Gates: So your mediation in your collective agreement was a step prior to the arbitration process? Is that kind of what—

Mr. Nicholas Pernal: It would have to depend on which collective agreement we're talking about. I have responsibilities for about 14 different collective agreements.

Mr. Wayne Gates: Well, in all the collective bargaining I did, we didn't use mediation very often. Quite frankly, we only used mediation if the agreement load would get extremely high, but that didn't happen a lot—

The Chair (Mr. John Fraser): Thank you very much, Mr. Gates.

Mr. Wayne Gates: I've got one question left. I can't finish it off?

The Chair (Mr. John Fraser): Sorry. You're out of time.

Mr. Wayne Gates: Okay.

The Chair (Mr. John Fraser): Thank you very much, Mr. Pernal, for appearing before us this morning.

Mr. Nicholas Pernal: Thank you very much.

MS. PAULINE FAUBERT

Review of intended appointment, selected by official opposition party: Pauline Faubert, intended appointee as member, Social Benefits Tribunal (Social Justice Tribunals Ontario).

The Chair (Mr. John Fraser): Our next intended appointee today is Pauline Faubert. Ms. Faubert, can you please come forward. Thank you very much.

You may begin with a brief statement. Members of each party will then have 10 minutes to ask you any questions. Any time that you use in your statement will be taken from the government's time.

Ms. Faubert, please proceed.

Ms. Pauline Faubert: Good morning. Bonjour, monsieur le Président et membres du comité de sélection.

Thank you for the privilege of speaking with you today and for providing me with the opportunity to highlight my skills, knowledge and expertise as they relate to this position. It's an honour to be considered for this position.

Il me fera un plaisir de répondre à vos questions en français, si vous le désirez.

As you see from my curriculum vitae, I am an educator by profession. I have held numerous leadership positions throughout my career. My educational qualifications include a bachelor of arts degree from the University of Ottawa, a master of education degree from the University of Western Ontario, and I also hold a diploma

in alternate dispute resolution from the University of Windsor school of law.

In addition, I hold principal and supervisory officer qualifications that have allowed me to supervise staff and to clarify and interpret education law for school board officials in my capacity as a supervisory officer in the district office of the Ministry of Education. I worked closely with English-language school board officials, as well as with the French-language units within these English-language school boards as the Ministry of Education transitioned the units to French-language school boards.

0930

I've also worked as a bilingual student success officer with the Literacy and Numeracy Secretariat, where I worked primarily with French-language school board administrators, teachers, parents and students using research-based strategies to improve student achievement.

I've worked as a bilingual officer in the standards of practice and accreditation department and as a manager of complaints and hearings with the Ontario College of Teachers, the largest self-regulated body at that time, whose mandate is to serve the public interest. As manager of complaints and hearings with the college, I was responsible for managing the intake of complaints and overseeing the hearings process. In this role, I worked with the college's legal counsel, independent legal counsel and mediators, as well as our ADR staff and the discipline and fitness to practise committee members responsible for adjudicating the referrals made to discipline and fitness to practise.

For the past nine years, I have been a public appointee with the College of Audiologists and Speech-Language Pathologists of Ontario, where I have served on numerous committees in the public interest, and chaired the ICRC, which is the investigations, complaints and review committee, for the past six years. During my tenure as chair, we have developed an ADR program, as well as specified continuing education and remedial programs for members identified through the ICRC process. Through the RHPA, the Regulated Health Professions Act, complainants wishing to appeal decisions and reasons made by the ICRC may do so to the Health Professions Appeal and Review Board. During the six years that I have been chair, none of the committee decisions have been modified or rejected by HPARB.

My term with the College of Audiologists and Speech-Language Pathologists will end this year, following this December's council meeting. It has been a very gratifying nine years working with the college council and their staff.

Over the years in working with the complaints and adjudicative process, I have received extensive training in administrative law, decision-and-reasons writing, as well as in identifying suitable cases for ADR and many other professional opportunities as they relate to adjudicating cases.

Last year, I was appointed to the Ontario College of Trades as a public member and, this year, as vice-chair of

the complaints committee. I have been bringing my experience with the complaints process to the complaints committee of the college as we begin to dispose of complaints in a fair, effective and timely manner consistent with the application of the legislation and in the public interest.

In closing, I believe that I have the knowledge, skills and expertise that would allow me to make a positive contribution to the Social Benefits Tribunal. I've always performed my duties in a fair, unbiased and professional manner. I'm very sensitive to the need for providing decisions and clear, coherent reasons in a timely manner to the appellants.

I'm committed to public service, and it would be an honour to continue to serve the people of Ontario. If selected for this appointment, I will perform my duties and responsibilities faithfully, sensitively and impartially. Thank you.

The Chair (Mr. John Fraser): Merci, Madame Faubert. We'll begin questioning with the official opposition, Mr. McDonell.

Mr. Jim McDonell: A long-time career in education: What inspired you to apply for this role?

Ms. Pauline Faubert: What has inspired me to apply for this role? I think it's a natural progression of my professional journey. After having moved from the classroom into various administrative positions and then specifically in the college settings, I have really always enjoyed working with legislation. I've enjoyed working in the adjudicative process. I feel that I've developed a very good and strong skill set in that regard.

My career and my life have really been dedicated to public service, and I feel that this would be a natural continuation in something that I'm not only interested in but quite passionate about.

Mr. Jim McDonell: We see through some of the stats here that somewhere around 50% of the ODSP complaints are actually awarded. Complaints, I'm sure—we see many people coming through our office taking five, six, eight months. That really means that they're being denied services, in that for a period of time they don't receive them. So most of these people that we see truly need the money, and withdrawing funds for six months is sometimes very hard for them to handle.

Is there some way you can see bringing that number down before they get to you? Really, if half the cases coming to the board are overturned, that's an indicator that that's too many. It should be a much smaller number. Any comment on that?

Ms. Pauline Faubert: While obviously some of that is a policy decision that has been made, and therefore I cannot comment on that appropriately, I hear what you're saying. I understand that this is extremely difficult for these vulnerable groups. However, my role as an adjudicator with the Social Benefits Tribunal is to ensure, number one, that I apply the law; number two, that I do so in a very fair and unbiased manner. But the whole piece of doing so in a timely manner is really critical. We have to move the cases along. We have to be writing our decisions and reasons in a very timely manner.

I think in my experience with the two colleges, that is always one of my first questions: Where are we with regard to our timeline, with regard to meeting our 120-day disposal under the act? Obviously, that's not achievable all the time for a variety of circumstances. Some of those delays are really related to ensuring that the process is fair and that individuals are given the time, the opportunity to share their story, share their side of the situation, be listened to in a very sensitive manner, and also then moving to dispose of it.

I understand what you're saying. That is, I think, partly related to some of the policies in place, and I can't comment on that.

Mr. Jim McDonell: I guess my comment is not so much around the policies, because obviously if the appealing persons as a group are having 50% of their applications actually awarded, that goes back to the front line. Obviously, there's an issue where they're not following policy, because I'm sure the tribunal is, and they need to get that feedback through training or whatever it is to bring those numbers down. I see on the OW side it's in the neighbourhood of 10% or 15%, which is probably what statistically would be reasonable, I would think, to have disputes heard at a higher level.

When they're getting 50% for such a—especially in this case here, where they are generally a group of people who are really in need of help and obviously can't work, to see a 50% overturning of the appeals is very high.

Do you have any questions?

The Chair (Mr. John Fraser): Ms. Munro?

Mrs. Julia Munro: Just following on the comments that my colleague made, I was wondering if you had looked at this reversal, with the 50% being turned down, as to, have the proper steps been taken prior to the process that would have a higher rate of success? It just seems to me that if it's at that level, then there are opportunities to look at how you reduce it. Do you reduce it by changing criteria? Do you reduce it by process? Do you reduce it by having people more effectively screened before you get to that point?

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Ms. Pauline Faubert: All of those things are wonderful suggestions. I think it's a question of working together, the tribunal also working with the Ontario Works program, as well as the ODSP, not working in isolation but looking at some of these issues.

My understanding from reading the documentation is that there has been a commission that was struck to look at this. They were very concerned with exactly the points you're making. With regard to dealing with these vulnerable populations and groups, this really needs to be addressed in order to look at streamlining the process as much as possible so that these folks can have an opportunity to present their case as well as be heard, and a decision made as soon as possible. I guess I'll just have to work really hard.

Mrs. Julia Munro: I was going to ask, if I have time—

The Chair (Mr. John Fraser): Yes. About three minutes.

Mrs. Julia Munro: —and it's a perfect segue, your last comment: How would you hope to accomplish that?

Ms. Pauline Faubert: Working hard?

Mrs. Julia Munro: Specifically targeting those issues.

Ms. Pauline Faubert: As I said, in my experience, the biggest challenge—and I see that in the work that I have done—is the writing of the decisions. Those can take a long time. I noticed in some of the documentation it can take up to eight months to resolve some of these cases. As you said, that's a long time. I think we really need to try to set some targets with regard to ensuring that we are dealing—and giving our reasons and decisions in a very timely manner so that we can move the process along for these folks.

Mrs. Julia Munro: I would agree.

The Chair (Mr. John Fraser): Mr. McDonell.

Mr. Jim McDonell: Just a comment. I see there's a backlog of about 11,000 cases, which in itself is huge, but considering that in some years 60% of those are overturned, I would think part of the tribunal's role would be to look at where the system is going wrong. When you see that many cases being overturned, obviously there must be some common element that I think, as a tribunal, it would be your responsibility to point these recommendations out to the government—errors, need of training or something. There's no use pushing a case to a board to tie up your time, especially with a backlog, if it shouldn't be there in the first place, obviously, with that type of number of cases that are overturned.

Do you see that as part of the role, providing some guidance back as to the needs for training—I'm sure these people are doing what they think is best, but in the end, there are a lot of cases going there that should never have gone there in the first place. Do you see that as a role, providing guidance back of possible training needs of the front-line staff?

Ms. Pauline Faubert: Education and training are always key, very important. I think the whole early resolution piece, the mediation piece, is also a very important piece—trying to identify those cases coming forward that would be suitable for that in order to expedite the process.

Unfortunately, it's been my experience that not always do folks wish to agree to those processes as effective. I find them much more effective, actually, than the more adversarial component. However, they're not always open to that, so perhaps it's really also providing some education to the individuals who are appealing around the benefits of an early resolution program.

Mr. Jim McDonell: I guess I'd just encourage you—you'll be in a spot where you'll see what went wrong, I would assume, and that allows you the opportunity to point back, through this government, to where there are issues that need to be fixed. This is a very vulnerable group, and if over half your cases—some 60% of the cases are being turned back, with a backlog like that—

The Chair (Mr. John Fraser): Thank you very much, Mr. McDonell. Mr. Gates.

Mr. Wayne Gates: Thanks very much. How was your day?

Ms. Pauline Faubert: I'm fine. How are you?

Mr. Wayne Gates: Good. Thanks for coming. First of all, I'm going to start by saying I know you work hard. You've been in education your entire life. My wife is a principal and just retired in June. I know how hard educators work.

Ms. Pauline Faubert: Thank you.

Mr. Wayne Gates: So you certainly don't have to defend yourself with me, that you're going to work hard on behalf of the appointment.

Just to touch on—I actually think the system's broken, quite frankly. Our office gets a lot of calls. You're absolutely right; these are people who are in need. When they're denied and it takes a long period of time, I think you just have to take a look and say, "What's the cost to the rest of the system?" A lot of them end up with mental health issues because now—

Ms. Pauline Faubert: Yes.

Mr. Wayne Gates: I think the whole system has to be looked at. I know that might not be exactly your role, but being in education, talking about training—I really think the training has to go to the front-line staff because, quite frankly, I think they get a lot of pressure for whatever reason to deny and then let them do the appeal, which goes through a long period of time, and now you've got desperate people doing desperate things. I think the cost on the entire system is wrong.

You did mention something that I found interesting to me—not necessarily to everybody else here but certainly to me. You did some work with the Ontario College of Trades?

Ms. Pauline Faubert: I am a public appointee for the Ontario College of Trades, yes.

Mr. Wayne Gates: What would you see in some of the complaints there? What did you see and what was your time like there?

Ms. Pauline Faubert: Unfortunately, I'm not at liberty to share that information with you.

Mr. Wayne Gates: I won't tell anybody, honest. It's just between us.

Ms. Pauline Faubert: It's highly confidential.

Mr. Wayne Gates: That's like our caucus meetings. I get it. Okay.

What attracted you to the position?

Ms. Pauline Faubert: Again, I think it's a natural progression for me, from the work that I've been involved in. As I said, I certainly enjoy working in that whole complaints adjudicative process. As you've mentioned, I read much of the information on the website. I found the challenges significant and I thought perhaps there's a spot for me there to direct some of my energies and time at this time in my life.

I've worked on numerous occasions throughout my career with vulnerable groups. When I was with the Literacy and Numeracy Secretariat, I was supporting

low-performing schools that had large aboriginal populations and trying to address their concerns etc.: training, again; education with the staff and parents. I have also done some consulting with the Canadian Hearing Society in their barrier-free education initiative, which again was very revealing with the challenges that these groups face.

So all of that together, I thought that with my skill set I might have an opportunity to be a positive contributor, and I'm hoping as well that perhaps my French-language skills might be put to use at some point in time.

Mr. Wayne Gates: Well, it's interesting because with my wife retiring in June, I'm trying to figure out how long—because she's quite young and I was just wondering how long before she wants to get into something different that she has a passion for. I find that educators usually find their little place where they want to go and they kind of do that.

Just as a follow-up to that question: Would your experience and your education prepare you to address the legal issues that you're going to have to deal with at the tribunal?

Ms. Pauline Faubert: I have received already a considerable amount of training in that regard with regard to administrative law and decision-and-reasons writing etc. Also, I have been assured that I will receive lots of training in preparation to assume this role. I don't feel that I would have—I'd be ready to step in immediately. This is a whole new process, and I'm excited about it. I am excited about the whole lifelong learning component and also I look forward to it. I know not everyone likes working with legislation, but quite frankly I do.

To answer your other question, it took me six months after retirement and I thought I have to continue contributing.

Mr. Wayne Gates: Okay. Well, it's been about six months. So maybe after Christmas she'll come to me and say something.

Anyway, I'm not going to ask you a lot more questions. I just want, quite frankly, to thank you for your contribution being an educator. It's certainly an important role that you played through your working life and certainly into your retirement life. So I just want to say thanks very much for your contribution.

Ms. Pauline Faubert: That's very appreciated.

The Chair (Mr. John Fraser): Thank you very much, Mr. Gates. Ms. Albanese, you have about four minutes and 40 seconds.

Mrs. Laura Albanese: Thank you. I shall be brief.

I want to thank you on behalf of the government for putting your name forward and appearing before the

committee today. It is clear that you have extensive experience, especially as far as the complaint process is concerned and the work that you mentioned with the two colleges—and just your career overall. Thank you for the contribution you have given to public service thus far, and we look forward to the work that you will be doing on the tribunal. Thank you.

Ms. Pauline Faubert: Thank you. If I may add one little piece, I would like to thank you. I have felt very supported throughout this process. Initially, I was quite intimidated. After reviewing all the documentation etc. I thought, oh, dear. I've received so much support from all of the individuals, not only at the tribunal but also from the government perspective, in ensuring that I'd be comfortable with this process today. So thank you for the support you've shown me.

The Chair (Mr. John Fraser): Thank you very much, Madame Faubert. Merci. You may leave your chair.

M^{me} Pauline Faubert: Avec grand plaisir. Merci, et bonne journée.

The Chair (Mr. John Fraser): Merci.

We'll move to concurrences. Our first concurrence: We will now move to consider the concurrence for Nicholas Pernal, nominated as member, Landlord and Tenant Board (Social Justice Tribunals Ontario). Can somebody please move the concurrence? Mr. Rinaldi?

Mr. Lou Rinaldi: I move concurrence in the intended appointment of Nicholas Pernal, nominated as a member of the Landlord and Tenant Board (Social Justice Tribunals Ontario).

The Chair (Mr. John Fraser): Thank you very much, Mr. Rinaldi. Do we have any discussion?

All in favour? Opposed? Carried.

The Chair (Mr. John Fraser): Congratulations, Mr. Pernal.

We'll now move to consider the concurrence for Pauline Faubert, nominated as a member of the Social Benefits Tribunal (Social Justice Tribunals Ontario). Can someone please move concurrence? Mr. Rinaldi?

Mr. Lou Rinaldi: I move concurrence in the intended appointment of Pauline Faubert, nominated as member, Social Benefits Tribunal (Social Justice Tribunals Ontario).

The Chair (Mr. John Fraser): Any discussion?

All in favour? Opposed? Carried.

The Chair (Mr. John Fraser): Congratulations, Madame Faubert. Félicitations.

We're done for the day. Meeting's adjourned.

The committee adjourned at 0953.

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