

TRIBUNAL WATCH ONTARIO

BACKGROUNDER: The Failure to Meet Key Performance Targets

ONTARIO LANDLORD AND TENANT BOARD

May 15, 2023

INTRODUCTION

According to its most recent Annual Report, published in July 2022, the Landlord and Tenant Board in 2021/22, as compared to the period pre-2018:

- Experienced declining applications – by 25% or 20,000 applications – despite a difficult rental housing climate
- Increased its backlog by 20,000 applications – an increase of more than 150%
- Took on average 342 days from filing to final order on a landlord arrears application, compared to 32 days for the same process under the previous regime.
- Took much longer to deal with tenant applications than landlord applications –more than 6 months longer from filing to final order.
- Answered 113,000 fewer calls from the public.
- Made callers wait 3 times longer for their calls to be answered.

All this has occurred despite the LTB having a larger overall complement of adjudicators in 2021/22 than at any previous time, and in a year when the LTB received increased funding.

Accessing justice at the LTB – getting to a hearing and a resolution – is now enormously more difficult than under the previous regime, enormously more difficult since the Ford Government came into power.

The Ford Government made the LTB part of Tribunals Ontario in 2018. The crisis at Tribunals Ontario is deeper and wider than the deplorable state of the LTB. The Human Rights Tribunal, the Social Benefits Tribunal and the Auto Accident Claims section of the License Appeal Tribunal, all part of Tribunals Ontario, all have unprecedented backlogs.

But leadership at Tribunals Ontario, of which the LTB is part, has yet to publicly acknowledge the depth of the crisis. In its most recent Annual Report, while staring at a doubled backlog of over 67,000 cases at its four largest tribunals, its Executive Chair reported that Tribunals Ontario is “well on the path to achieve our vision of becoming recognized as being among the best adjudicative tribunals in North America”, with “access to justice at the centre of everything” it does.

You can't solve a problem if you deny it exists, if you deny your own data. And this is not a crisis that can be solved simply with more money.

THE DATA - KEY PERFORMANCE INDICATORS

The data below is taken from three sources:

- the most recent **2021/22 Annual Report** which provides data for the 3 most-recent fiscal years (2021/22, 2020/21, 2019/20), after the Ford Government moved the Landlord and Tenant Board into Tribunals Ontario
- the **2017-2018 Annual Report** which provides data for the last 3 fiscal years under the previous Government when the LTB was part of the Social Justice Tribunals. (2017/18, 2016/17 2015/16)
- **Open Data Inventory on Tribunals Ontario's website.**

DROP IN APPLICATIONS TO THE LTB

2017/18 Annual Report 3-year average	2021/22 Annual Report 3-year average	Most recent fiscal year 2021/22
80,812	63,627	61,586

By 21/22, the number of LTB applications per year had fallen by almost 20,000 or 25% from averages under the previous regime.

INCREASED BACKLOG (Active Cases at Year-End)

2017/18 Annual Report 3-year average	2021/22 Annual Report 3-year average	Most recent fiscal year 2021/22
12,929	30,111	32,800*

By 21/22, the LTB backlog had more than doubled, increased by almost 20,000 cases under the new regime at Tribunals Ontario.

* The Ombudsman's Report on the LTB, "Administrative Justice Delayed, Fairness Denied", released May 4/23, gives the current backlog number as 38,000 (para.6) .

LESS ASSISTANCE THROUGH LTB CALL CENTRE - # of calls handled

2017/18 Annual Report 3-year average	2021/22 Annual Report 3-year average	Most recent fiscal year 2021/22
277,672	188,106	164,521

By 21/22, the # of annual answered calls from the public had fallen by 113,151, by 40%.

LONGER AVERAGE WAIT TIMES FOR CALLERS TO LTB CALL CENTRE

2017/18 Annual Report 3-year average	2021/22 Annual Report 3-year average	Most recent fiscal year 2021/22
7:85 minutes	18:46 minutes	22:46 minutes

By 21/22, the wait times for the public had more than tripled, increasing on average by almost 15 minutes.

LONGER WAIT TIMES BEFORE A NOTICE OF HEARING IS SENT OUT

2017/18 Annual Report 3-year average	2021/22 Annual Report 3-year average	Most recent fiscal year 2021/22
All Applications: 26 days	L1 + L9s: 84 days All other applications: 88 days	L1+L9s: 74.4 days All other applications: 103.1 days

Note that this is not how long an applicant waits for a hearing but only how long they wait for the scheduling process to be completed. The wait times for hearings increased even more dramatically, but this is not reported in the Annual Reports. For that data, one must go to the Tribunals Ontario website, Open Data Inventory (below).

COMPARABLE NUMBER OF ADJUDICATORS¹

The Ontario Government announced in April 2023, that it is providing the LTB with \$6.5 million in new funding to hire 40 new adjudicators, on top of \$1.4 million for additional staff announced in November 2022.

How does the current complement of adjudicators compare with the previous years? The numbers are now comparable.

2017/18 Annual Report	2019/20 Annual Report*	2021/22 Annual Report **
50 full time 11 part time	43 full time 12 part time	49 full time 64 part time

* As reported by Tribunal Watch in its May 14, 2020 Statement of Concern, there was a drop in the # of adjudicators in 2020 as a result of the Ford Government's failure to re-appoint in the normal course adjudicators who had first been appointed by the previous Liberal Government. As of April 30, 2020, there were only 30 full time adjudicators at the LTB. ** An unusually large number of adjudicators are cross-appointed to multiple tribunals, making comparisons difficult.

From Tribunal Ontario's Open Data Inventory: The two comparisons below are between first available quarterly report on the Tribunals Ontario website (April 1/16 to June 30/16) and most recent quarterly report (October 1/22 to December 31/22).

INCREASE IN AVERAGE # OF DAYS FROM FILING TO FINAL ORDER FOR AN ARREARS APPLICATION (L1)

2016	2022
29 days	342 days

CURRENT WAIT GAP BETWEEN LANDLORD AND TENANT APPLICATIONS: Average wait times from filing to order in the last reported quarter – October 1/22 to December 31/22, Open Data Inventory, Tribunals Ontario website.

Average Wait – All Landlord Applications	Average Wait – All Tenant Applications
221	427 days

¹ Each Annual Report includes appointees whose appointments lapse at some point during the fiscal year. This means that the exact number at any point in the fiscal year will be lower than the total number listed in the Annual Report.

