An Update on the Profile of Labour Arbitration Cases in Ontario

by

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Plan of the Overview

- Introduction:
  Picher and Mole as a benchmark

- Data for Ontario arbitrations for 1990 vs 2010
  Selected comparative statistics for arbitrations

- Preliminary descriptive overview of the Ontario 2010 data
Picher and Mole*

- Ontario arbitration awards, Sept. 1989 – Feb 1990; Source: Can Lab Arb Sum, CLB
- Included LRA, Colleges CB Act, and Teachers’ Act; excludes Crown Employees CB Act
- Sample: 643 Awards total; Net 591 (omitted ~ 8.1% of awards)

- Data:
  1. Employer’s Name
  2. Arbitrator or Chair’s Name
  3. Award Date
  4. Sole Arbitrator or Tripartite Board
  5. Number of Hearing Days
  6. Date of First Hearing Day
  7. Date of Last Hearing Day
  8. Type of Award (disciplinary/ non-disciplinary)
  9. Employer as Public vs Private Sector
  10. Whether or not award issued under section 45 (now section 49) of LRA

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- Ontario arbitration awards, Jan. 2010 – Dec 2010
- Source: All Ontario arbitration cases (Quicklaw) (some exclusions)
- Sample: approx. 640 cases; usable in range of 550 +, - depending on the variable
- Data:
  - Event Date
  - Grievance Date
  - Date of 1st hearing day
  - Date of Last hearing day
  - Award Date
  - Subject: (e.g., Human rights or discrimination; Charter;
    Discharge for Discipline/ Non- Discipline; Discipline)
  - Total number of Subjects Dealt With
  - Award Outcome
  - Total Number of grievances in Award
  - Employer Represented by Legal Counsel & Rep Appearing for Employer
  - Union Represented by Legal Counsel & Rep Appearing for Union
  - Total Word Count
Picher and Mole: Time Elapsed at Arbitration

- First Hearing to Award: Median 38, Average 85.9
- Last Hearing to Award: Median 27, Average 52.4
- First to Last Hearing: Median 81, Average 117.9
- Hearing Days: Median 1, Average 1.7

BCS: Time Elapsed at Arbitration

- First Hearing to Award: Median 48, Average 134.6
- Last Hearing to Award: Median 26, Average 47.3
- First to Last Hearing: Median 47.3, Average 87.8
- Hearing Days: Median 1, Average 2.4

- First Hearing to Award is much longer in 2010
- Last hearing to award about the same
- More hearing days on average
Distribution of Hearing Days: Picher & Mole

- 0 - 1: 71.6%
- 1.1 - 2: 15.2%
- 2.1 - 3: 5.4%
- 4 or more: 7.8%

Distribution of hearing days has shifted toward more days

Distribution is slightly less skewed

Distribution of Hearing Days: BCS

- 0 - 1: 58.13%
- 1.1 - 2: 16.78%
- 2.1 - 3: 8.66%
- 3.1 - 4: 5.3%
- 4+: 11.13%
Distribution of total time has shifted toward greater total time.

Distribution is slightly less skewed.
Arbitration Cases in Ontario, by Selected Characteristics, 2010

Banks, Chaykowski, Slotsve (2011)
Distribution of number of hearing days is skewed and centered on 1 day

- Median is 1 day
- Mean is 2.4 days

Distribution is extremely skewed

- Median is 48 days
- Mean is 134.6 days
- Expedited arbitrations take substantially less time (about $\frac{1}{2}$)
- Hearing days are the same

### Ontario (Not-) Expedited Arbitrations, 2010, Median No. of Days

<table>
<thead>
<tr>
<th>Category</th>
<th>All Cases</th>
<th>Not Expedited</th>
<th>Expedited</th>
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<tbody>
<tr>
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<td>21</td>
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<tr>
<td>Last Hearing to Award</td>
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<tr>
<td>Hearing Days</td>
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<td>1</td>
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</tr>
</tbody>
</table>

Banks, Chaykowski, Slotsve (2011)
Disciplinary cases take longer & substantially more hearing days
Tripartite Boards take substantially more time (about 2x)

Hearing days are the same

Hearing days for Tripartite Boards are distributed differently compared to sole arbitrators

Average is 3.4 for the Trip. Board vs. 2.4 days for sole arbitrator
Ontario Arbitrations by Sector, 2010,
Median No. of Days

- First Hearing to Award:
  - All Cases: 48
  - Public Sector: 47
  - Private Sector: 26

- Last Hearing to Award:
  - All Cases: 26
  - Public Sector: 26

- Hearing Days:
  - All Cases: 1
  - Public Sector: 1
  - Private Sector: 1

- Distribution of time duration is different with less dispersion in private sector.

Banks, Chaykowsky, Sletsve (2011)
Cases with female grievors take substantially less time

Hearing days are the same
Ontario Arbitrations by Arbitrator Sex, 2010, Median No. of Days

First Hearing to Award
- All Cases: 51
- Arbitrator Male: 39
- Arbitrator Female: 51

Last Hearing to Award
- All Cases: 26
- Arbitrator Male: 24
- Arbitrator Female: 26

Hearing Days
- All Cases: 1
- Arbitrator Male: 1
- Arbitrator Female: 1

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☑ Cases with female arbitrator take less time
☐ Hearing days are the same
Next steps in the analysis:

- Expand the number of years to examine changes over time
- Analyze whether or not differences are statistically meaningful (i.e., significant)
- Extend the distributional analysis
- Focus on regression and other statistical analyses to explain variation in time duration and in number of days
  - explore role of specific factors such as subject matter, employer, union, specific industry, as well as others