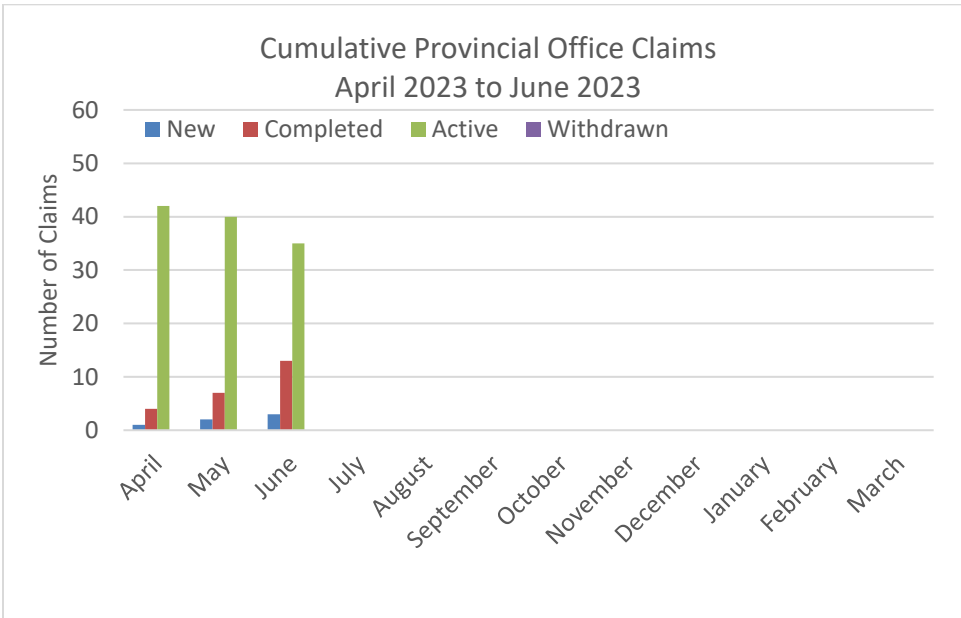
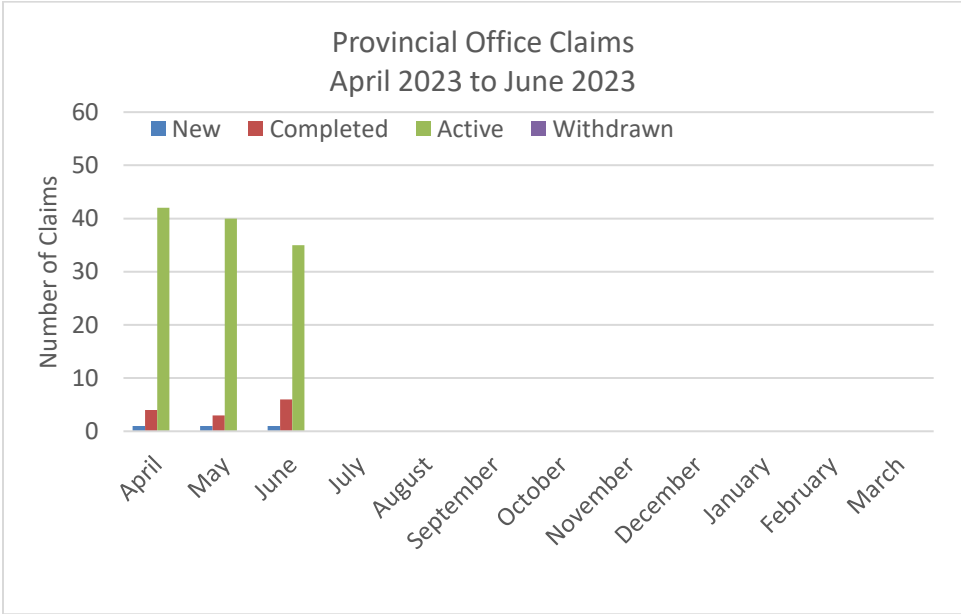


Claims, Referee and Adjudication Update April 1, 2023, to June 15, 2023

Provincial Office Level Claims – So Far, this Fiscal (April to mid-June)

- Claims continue to be assigned as submitted.
- Received 3 new claims (3 Construction, 0 Contract Administration and 0 Maintenance) compared to 103 in F2022/23.
- 13 claim reviews have been completed compared to 130 in F2022/23
- No claims were withdrawn compared to 2 in F2022-23.
- 35 claims are currently active (i.e., under review) compared to 47 at the end of F2022/23.



Claims, Referee and Adjudication Update April 1, 2023, to June 15, 2023

Provincial Office Level Claims – Breakdown by Contract Type

- **Construction Claims Information (including COVID-19 Claims)**
 - 3 Construction Claims were received in F2023-24 (April to mid-June)
 - 0 claims are from a contract with the April 2010 General Conditions
 - 0 claims are from contracts with the 2016 GCs
 - 3 claims are from contracts with SP 100S55 (GC 3.15 clause)
 - This compares to 103 claims received in F2022-23 (full year):
 - 2 claims were from a contract with the April 2010 General Conditions
 - 23 claims were from contracts with the 2016 GCs
 - 78 claims were from contracts with the GC 3.15 clause
 - There are currently 35 active construction claims

COVID-19 Claims

- No COVID-19 claims have been received by the Contract Claims Office in F2023-24. This compares to 5 COVID-19 claims in F2022-23, 31 claims in F2021-22 and 5 claims in F2020-21.
- **Maintenance Claims**
 - No maintenance claims have been received by the Contract Claims Office in F2023-24. This compares to 2 maintenance claims in F2022-23, 3 in F2021-22 and 8 claims in F2020-21.
 - There are currently 0 active maintenance claims.
- **Consultant Contract Administration (CA) Claims**
 - No consultant CA claims have been received by the Contract Claims Office in F2023-24. This compares to 3 consultant CA claims in F2022-23, zero claims in fiscal 2021-22 and 2 received in F2020-21.
 - There are currently 0 active CA claims.

Claims, Referee and Adjudication Update

April 1, 2023, to June 15, 2023

Referees, Adjudications, Mediations and Litigations

- **Referees**
 - We had 1 request this fiscal compared to 18 requests in F2022-23, 17 in F2021/22 and 28 requests in F2020/21.
 - Note that the referee process came into the General Conditions from 2016 to 2019, before being replaced by the adjudication process.
 - There has been one referee decision received this fiscal compared to 19 decisions in F2022-23, 21 decisions in F2021-22 and 22 decisions in F2020-21.
 - There are currently 6 active referee proceedings.

- **Adjudications**
 - We had 2 requests this fiscal year compared to 16 requests in F2022-23, 8 in F2021-22 and 3 in F2020-21.
 - There were 5 adjudication determinations received this fiscal year compared to 11 determinations in F2022-23, 9 in F2021-22 and 2 in F2020-21.
 - There is currently 1 active adjudication proceeding.

- **Mediations**
 - We had no mediation requests this fiscal year compared with one request in F2022-23.
 - Mediation has been removed from the current dispute resolution process, replaced by the referee process in 2016 and adjudication in fall 2019.
 - While Mediation requests continue to drop, they will not be completely eliminated for some time due to existing longer term Maintenance Contracts that have mediation as an alternative dispute resolution option.

- **Litigations**
 - We had 2 new litigations in Fiscal 2023-24 and two litigations have been resolved in F2023-24.
 - We currently have 30 litigations underway.

Claims, Referee and Adjudication Update

April 1, 2023, to June 15, 2023

- **General Comments**
 - Contract Claims Office continues to adjust to the new claims process that no longer includes a field or regional level claim review. The process on contracts awarded after October 1, 2019, involves claims coming directly to the Contract Claims Office from the field. This has resulted in a quicker inflow of claims that would have previously been reviewed at the field and regional levels and would also have resulted in some of the claims being settled at the field or regional levels.
 - Historically, approximately 30% of claims were resolved at the field level and a further 30% of the claims elevated to regional level were resolved.
 - COVID-19 was a unique situation, which introduced additional claims (43 claims have come to the provincial level).
 - A review of the outcome of referee and adjudication decisions indicates that MTO's review/analysis on claims is reasonable as referee and adjudicator decisions are typically supportive of MTO's review/analysis.
 - As of June 15, 2023, there have been:
 - 88 Referee decisions, and
 - 27 Adjudication determinations.
 - Included in the above decisions/determinations are 15 COVID-19 decisions/determinations.
 - Approximately half (55%) of the referee and adjudication decisions/determinations were denials of the contractor claims in their entirety.
 - Referee and Adjudication decisions have awarded on average 20% of the claim value submitted.
 - For F2023-24 the average is 16%,
 - For F2022-23 the average is 21%; and
 - For F2021-22 that average is 11%.
 - COVID-19 specific referee and adjudication decisions average 2.5% of the claim value submitted.
 - MTO considers that, in general, referee and adjudication decisions support MTO's position and indicate that MTO is reasonable in its assessment of claim principle and quantum. Typical decisions do not support the contractor's claim amounts but rather are closer to the MTO review/analysis (which may include an acknowledgement of some MTO responsibility for a portion of the claim amount).

Claims, Referee and Adjudication Update April 1, 2023, to June 15, 2023

Referee and Adjudication Decisions

- The following bar chart is based on 88 referee decisions and 27 adjudication determinations. One referee decision was removed from the data as the decision included only a time component.

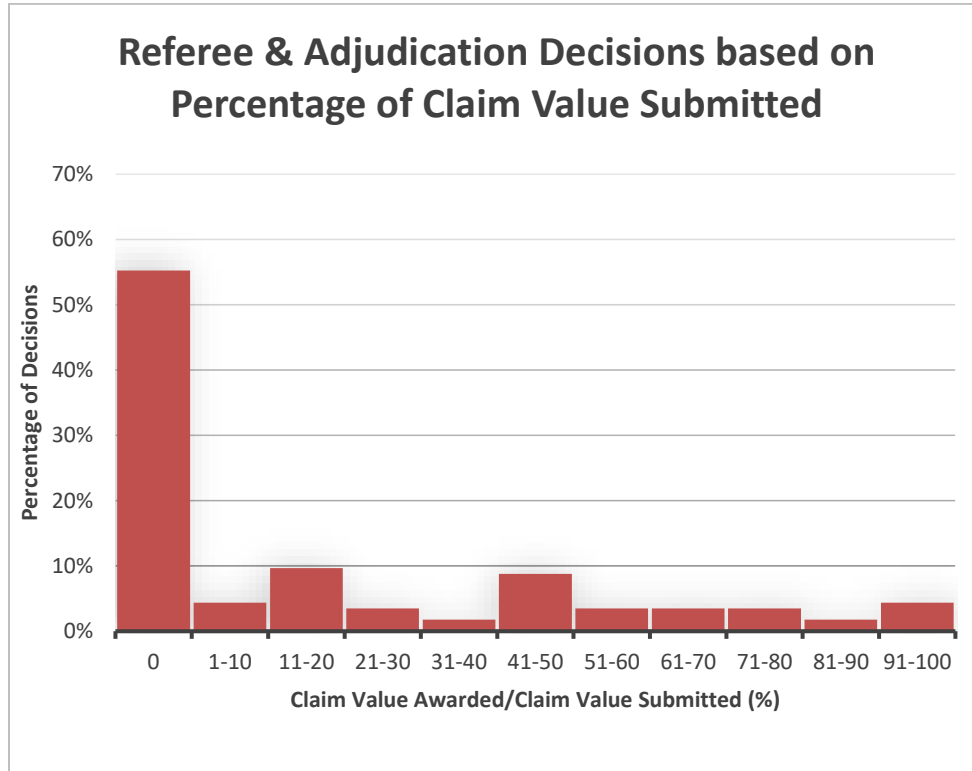


Figure 1 – Distribution of Referee and Adjudication Decisions based on Percentage of Claim Value Submitted

Claims, Referee and Adjudication Update
April 1, 2023, to June 15, 2023

Fiscal Breakdown for 2023-24 (April to Mid-June)

- The bar chart below represents the referee and adjudication decisions that occurred within F2023-24. This represents 1 referee decision and 5 adjudication determinations.
- Of the 6 third party decisions:
 - 4 decisions supported MTO review/analysis by dismissing the claims,
 - 1 decision awarded an amount between 40 and 50%, and
 - 1 decision awarded an amount between 50 and 60% of the claimed value.
- The average third party decision was 16% of the claimed value, which is consistent with the overall average of all referee/ adjudications of 20%.

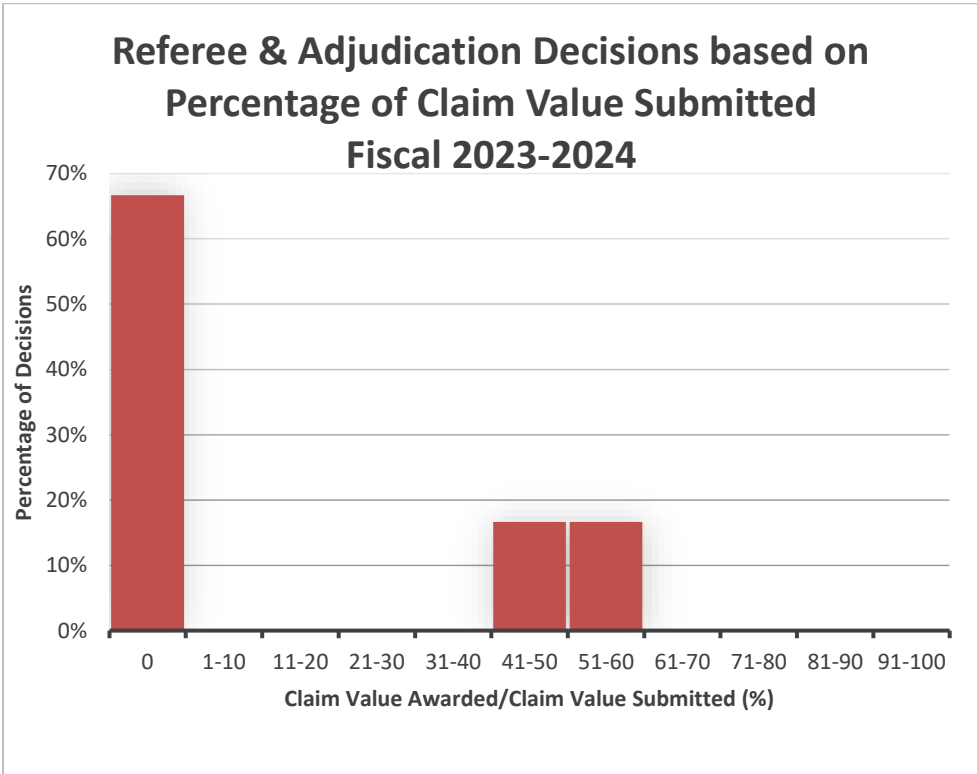


Figure 2 – Distribution of Referee and Adjudication Decisions based on Percentage of Claim Value Submitted for F2023-24