

The Labour Relations Act

Before The Ontario Labour Relations Board

Between:

Metropolitan Plumbing and Heating Contractors Association, A Division of the Mechanical Contractors Association Toronto,

Applicant,

—and—

The United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada, Local 46 (Residential Division),

Respondent,

—and—

Toronto Home Builders' Association,

Intervener.

Certificate

Upon the application of the applicant and in accordance with the provisions of The Labour Relations Act THIS BOARD DOTH ACCREDIT the Metropolitan Plumbing and Heating Contractors Association, A Division of the Mechanical Contractors Association Toronto as the bargaining agent for all employers of plumbers and plumbers' apprentices, steamfitters and steamfitters' apprentices and welders, on whose behalf the respondent has bargaining rights in the Regional Municipality of York, that portion of Ontario County lying West of Pickering-Whitby Townships Line, Peel County, that portion of Halton County lying South of Highway 401 and East of the Seventh Line and Dufferin County in the residential sector of the construction industry.

This certificate is to be read subject to the terms of the Board's decisions in this matter and accordingly the unit of employers described herein is to be read subject to any qualifications referred to in the said decisions of the Board.

The employers for whom the Metropolitan Plumbing and Heating Contractors Association, A Division of the Mechanical Contractors Association Toronto becomes the bargaining agent under this certificate are Acri McGarvey Plumbing and Heating, Armstrong Baum, Brady & Seidner Limited, C. G. Broughton Ltd., Cannone (Northern) Ltd., Commercial Plumbing

. . . Certificate of Accreditation:

and Heating Limited, Coppard & Jewett Ltd., Denny Bros. Limited, Durcard Mechanical Contractors Limited, Esto Plumbing & Heating Co. Ltd., Finch Plumbing & Heating Limited, Granzotto - Mechanical Contractor, F. Happe Plumbing & Heating Limited, Lewis Bannerman Limited, Lampert Plumbing Limited, Mercury Heating Contractors Ltd., Metro Plumbing (1968) Limited, Henry Mierins Limited, Municipal Plumbing & Heating Co., Niagara Mechanical Contractors, Northview Plumbing Ltd., A. Paterson Plg. & Htg., Planet Plumbing Co. Ltd., Rocket Plumbers Ltd., Sayers & Associates Limited, Smith & Martin Ltd., Urban Mechanical Contracting Company, Johnnie Walker & Sons, Westway Mechanical Contractors Ltd., Wexford Plumbing & Htg. Co. Ltd., Woodward Mechanical Limited, Yorkdale Plumbing & Heating Limited, Zentil Plumbing and Heating Ltd. & Co., Benny's Heating, Minz Htg. & Air Cond. Ltd., Eduard Phillips Ltd., and such other employers for whose employees of The United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada, Local 46 (Residential Division), may after December 3rd, 1971 obtain bargaining rights through certification of voluntary recognition in the geographic area and sector set out in the unit of employers described herein.

DATED at Toronto this 5th day of April, 1973.

ONTARIO LABOUR RELATIONS BOARD

(S E A L)

"D. E. FRANKS"

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CERTIFICATE

400 University Avenue,
TORONTO 2, ONTARIO.

1339-71-R Metropolitan Plumbing and Heating Contractors Association, Applicant v. The United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada, Local 46 (Residential Division), Respondent v. Toronto Home Builders' Association, Intervener

Accreditation - Reconsideration - Reconsideration sought of 1973 accreditation decision issued by a differently constituted panel of the Board - Bargaining rights in respect of low-rise part of residential sector never exercised - Board excluding low-rise part of residential sector from accreditation certificate - Low-rise part of residential sector defined

BEFORE: *Harry Freedman*, Vice-Chair, and Board Members *D. A. MacDonald* and *J. Redshaw*.

APPEARANCES: *Mark Geiger*, *Robert Salisbury*, *Martin Rosenbaum* and *Ed Winter* for Metropolitan Plumbing and Heating Contractors Association; no one for the Mechanical Contractors Association Toronto; *Bryan Hackett* and *Laurence Arnold* for the respondent; no one appearing for the intervener.

DECISION OF THE BOARD; May 6, 1987

1. Counsel for the Metropolitan and Heating Contractors Association has applied for reconsideration of the decision and certificate of accreditation dated April 4, 1973 issued by a differently constituted panel of the Board.

2. This matter has come before this panel of the Board at the same time as an application for accreditation in Board File No. 2211-86-R. The Mechanical Contractors Association Toronto, although served with notice of that application, did not appear or file an intervention. Although formal notice that the Board would consider counsel's request for reconsideration at the hearing of that matter was not given to the Mechanical Contractors Association Toronto, we were advised at the hearing on April 9, 1987 by counsel for the applicant herein that he had spoken to Derwent Lewis, executive vice-president of Mechanical Contractors Association Toronto on April 9, 1987. Mr. Lewis was advised that the Metropolitan Plumbing and Heating Contractors Association was seeking to have the accreditation decision and certificate amended by:

- i) deleting any reference to Mechanical Contractors Association Toronto in the decision and certificate, thus making explicit that the Metropolitan Plumbing and Heating Contractors Association is the accredited employer's organization;
- ii) amending the geographic scope of the bargaining unit in the accreditation decision and certificate to include explicit reference to the Municipality of Metropolitan Toronto; and
- iii) amending the sectoral scope of the bargaining unit in the accreditation certificate and decision by excluding the low-rise part of the residential sector of the construction industry.

3. Counsel stated that Mr. Lewis authorized him to advise us that the Mechanical Contractors Association Toronto was aware of the request made by counsel, had no interest in intervening in the request to amend the decision and certificate of accreditation in the manner described and was content to have the Board deal with the request for reconsideration at the hearing convened by the Board in the application for accreditation in Board File No. 2211-86-R on April 9, 1987.

4. Counsel for Local 46 was present and agreed to the amendments requested by the Metropolitan Plumbing and Heating Contractors Association.

5. Counsel for the Metropolitan Plumbing and Heating Contractors Association, in a letter dated December 15, 1986, set out the detailed factual and legal submissions in support of the request for reconsideration. We are persuaded that the current bargaining structure which has evolved since the 1973 accreditation decision and certificate, the consent of Local 46 and the position taken by the Mechanical Contractors Association Toronto all provide sufficient grounds to vary the accreditation certificate as requested. Of particular significance, in our opinion, is that notwithstanding that bargaining rights were granted in respect of the residential sector of the construction industry, those bargaining rights were not exercised in respect of the low-rise part of that sector. It is clear to us that the accredited employers' organization in this case had abandoned its bargaining rights in respect of the low-rise part of the residential sector.

6. Therefore, we hereby vary the Board's decision and certificate of accreditation dated April 4, 1973 by amending the name of the applicant to Metropolitan Plumbing and Heating Contractors Association, and by amending the bargaining unit description in paragraph 12 of the Board's decision of April 4, 1973 and the bargaining unit set out in the certificate of accreditation under the same date to read as follows:

The Board therefore finds that all employers of plumbers and plumbers' apprentices, steamfitters and steamfitters' apprentices and welders for whom the respondent has bargaining rights in the Municipality of Metropolitan Toronto, the Regional Municipality of York, that portion of Ontario County lying West of Pickering-Whitby Townships Line, Peel County, that portion of Halton County lying South of Highway 401 and East of the Seventh Line and Dufferin County in the residential sector of the construction industry, save and except the low-rise part of the residential sector of the construction industry, constitute a unit of employers appropriate for collective bargaining.

7. For purposes of clarity, the low-rise part of the residential sector of the construction industry is defined as:

- i) all single and semi-detached family dwellings;
- ii) all row-house and townhouse units;
- iii) (a) all residential projects now governed by the existing N.B.C. requirements for plastic pipe and fire ratings;
(b) all projects of mixed usage, where the residential portion comprises 50 per cent or more and which are now governed by the existing N.B.C. requirements for plastic pipe and fire ratings;
- iv) apartment buildings of not more than six units;
- v) all projects of mixed usage, where the residential portion comprises 50 per cent or more and less than three floors.

8. An amended certificate of accreditation will issue.
