

ONTARIO LABOUR RELATIONS BOARD

Between:

Mechanical Contractors Association,
Kingston,

Applicant,

- and -

Sheet Metal Workers International
Association, A.F.L.-C.I.O.-C.L.C.,
Local Union No. 269,

Respondent.

BEFORE: R. A. Furness, Vice-Chairman, and Board Members
H. J. F. Ade and E. Boyer.

APPEARANCES AT THE HEARING: W. J. Cook, E. Leeder and W.H.T.
Wilson for the applicant; Ronald S. Taylor and William Bailey
for the respondent.

DECISION OF THE BOARD:

1. This is an application for accreditation, construction industry, wherein the applicant seeks to be accredited as the bargaining agent for certain employers who have a bargaining relationship with the respondent. The respondent is a party to a collective agreement with The Belleville-Kingston Sheet Metal Contractors' Association which was signed on May 30, 1973, and which is effective from May 1, 1973 until April 30, 1975, with provision for a continuance in operation subject to notice. Having regard to the material before it, the Board is satisfied that more than one employer who is affected by this application is bound by this collective agreement. Accordingly, the Board finds that it has jurisdiction to entertain this application under section 113 of The Labour Relations Act.

2. The applicant is an unincorporated association. In support of its application, the applicant filed a copy of its constitution. Having regard to the material before it and the representations of the parties, the Board finds that the applicant is an employers' organization within the meaning of section 106(d) of The Labour Relations Act and is satisfied that the applicant is a properly constituted organization for the purposes of section 115(3) of The Labour Relations Act.

3. The applicant also filed in support of its application 16 documents entitled "Employer Authorizations". These documents appoint the applicant as representative for collective bargaining with the respondent. These

documents appoint the applicant as agent and representative to make an application for accreditation under the Labour Relations Act. The applicant also filed in support of these documents a duly completed Form 62, Declaration Concerning Representation Documents, Application for Accreditation, Construction Industry. The Board is satisfied that the evidence of representation meets the requirements set out in section 96 of the Board's Rules of Procedure and the Board is further satisfied that the individual employers on whose behalf the applicant has submitted evidence of representation have vested appropriate authority in the applicant to enable it to discharge the responsibilities of an accredited bargaining agent.

4. The collective agreement referred to in paragraph one herein applies to and is effective within the County of Prince Edward; the City of Belleville and the Townships of Sidney, (including all of the Town of Trenton) Thurlow and Tyendinaga, in the County of Hastings, and the Counties of Lennox & Addington, Frontenac and Leeds. The applicant and the respondent agree that the appropriate geographic area for accreditation in the instant application is the County of Prince Edward, the Townships of Sidney, Thurlow and Tyendinaga in the County of Hastings, and the Counties of Lennox & Addington, Frontenac and Leeds with a clarity note that the separated Town of Trenton and the City of Belleville are included in the geographic area. The applicant and the respondent have also agreed that pursuant to this collective agreement employees have been employed in the residential and in the industrial, commercial and institutional sectors of the construction industry. In all of the circumstances of this application the Board finds that all employers of journeymen sheet metal workers and registered apprentices for whom the respondent has bargaining rights in the County of Prince Edward, The Townships of Sidney, Thurlow and Tyendinaga in the County of Hastings, and the Counties of Lennox & Addington, Frontenac and Leeds in the residential and in the industrial, commercial and institutional sectors of the construction industry, constitute a unit of employers appropriate for collective bargaining. For the purpose of clarity the Board declares that the separated Town of Trenton and the City of Belleville are included in the geographic description which is set forth in the unit of employers.

5. Notice of this application was given to 23 employers in accordance with the Board's Rules of Procedure.

6. One employer failed to file a return. In these circumstances the applicant and the respondent have agreed that the disposition of this employer for the purposes of section 115 of The Labour Relations Act is as follows:

No. 13 Igloo Construction Co. Ltd. -
Final Schedule "F"

7. One employer who claimed to be excluded from the list of employers in the unit of employers in its employer filing did not appear at the hearing in this matter. Having regard to the representations of the applicant and the respondent, the Board finds that this employer has bargaining rights with the respondent. Accordingly, this employer will be dealt with as follows:

Comstock International Ltd. - Final
Schedule "F"

8. On the basis of the foregoing and the filings by individual employers, the Board has prepared the following lists of employers. These employers listed on Final Schedule "E" are those who have indicated that they had employees affected by the application in the year preceding October 21, 1974, the date of the making of this application. Those on Final Schedule "F" have indicated that they have not had such employees.

Final Schedule "E"

Acme Plumbing & Heating
Andreynolds Company Limited
Bourdeau Heating & Air Cond. Ltd.
Covertite (Ontario) Ltd.
English & Mould Ltd.
E. S. Fox Ltd.
Freeman Sheet Metals Limited
Graves Brothers Limited
Grenville Plumbing & Heating Ltd.
R. E. Harding Limited
L. & C. Sheet Metal
Thos. Lemmon & Sons (1973) Ltd.
J. Lewin & Co. Inc.
E. K. Purdy Limited
Quintal & England Limited
Quinte Roofing Ltd.
Stirling Sheet Metal Limited
J. E. Tooley Limited

Final Schedule "F"

Admar Installations
Comstock International Ltd.
Igloo Construction Co. Ltd.
Kingston Roofing & Flooring Co. Ltd.
Rexway Sheet Metal Limited

The Board finds that the 18 employers on Final Schedule "E" were those employers who had employees in the year immediately preceding the making of the application, and the number 18 is the number of employers to be ascertained by the Board under section 115(1)(a) of The Labour Relations Act.

9. On the basis of all the evidence before it, the Board finds that on the date of the making of the application the applicant represented 15 of the 18 employers on Final Schedule "E". The 15 employers is the number of employers to be ascertained by the Board under section 115(1)(b) of The Labour Relations Act. Accordingly, the Board is satisfied that a majority of the employers in the unit of employers is represented by the applicant.

10. The Schedule "H" which accompanied the Form 68, Employer Filing, filed by the individual employers sets out the number of employees that the employer has at each job site with details of the location and the type of construction involved. By section 115(1)(c) of The Labour Relations Act, the payroll period immediately preceding the making of the application is the relevant weekly payroll period for determining the number of employees affected by the application. On the basis of all the evidence before it, the Board finds that there were 106 employees affected by this application during the payroll period immediately preceding October 21, 1974. The 106 employees is the number of employees to be ascertained by the Board under section 115(1)(c) of The Labour Relations Act.

11. The Board further finds that the 15 employers represented by the applicant employed 90 of these 106 employees. The Board is therefore satisfied that the majority of the employers represented by the applicant employed a majority of the employees affected by this application as ascertained in accordance with the provisions of section 115(1)(c) of The Labour Relations Act.

12. Having regard to all of the above findings a Certificate of Accreditation will issue to the applicant for the unit of employers found to be an appropriate unit of employers in paragraph four herein, and in accordance with the provisions of section 115(2) of The Labour Relations Act for such other employers for whose employees the respondent may after October 21, 1974, obtain bargaining rights through certification or voluntary recognition in the geographic area and sector set out in the unit of employers.

May 22, 1975.

"R. A. Furness"
for the Board