

ONTARIO LABOUR RELATIONS BOARD

Between:

Mechanical Contractors Association
Zone 10,

Applicant,

- and -

United Association of Journeymen
and Apprentices of the Plumbing
and Pipe Fitting Industry of the
United States and Canada, Local
599,

Respondent.

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

APPEARANCES AT THE HEARING: Charles D. Anderson and Ted Morris
appearing for the applicant; Charles Carter appearing for the
respondent and A. H. Brodie appearing for Chemical Valley
Fabricating Company Ltd.

DECISION OF THE BOARD:

1. The name "Local 599 of Plumbers & Steamfitters Union known as The United Association of Journeymen and Apprentices of the Plumbing & Pipe Fitting Industry of the United States and Canada Local 599" is amended to read "United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada, Local 599".

2. 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 Mechanical Contractors Association Zone 10 which was executed on July 17, 1975, and which is effective from May 1, 1975 until April 30, 1977. 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.

3. 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.

4. The applicant also filed in support of its application 6 documents entitled "Employer Authorization". 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 two duly completed Form 62's, 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.

5. The collective agreement referred to in paragraph two applies to and is effective within Simcoe County, the District Municipality of Muskoka, the Townships of Rama, Mara and Thorah in the County of Ontario, and the Townships of Carling, Ferguson, McDougall, McKellar, Christie, Foley, Conger and Humphrey in the District of Parry Sound, including all of the municipalities therein. The applicant and the respondent agree that this is the appropriate geographic area for accreditation in this application. The applicant and the respondent have also agreed that pursuant to this collective agreement employees have been employed in the residential sector and in the industrial, commercial and institutional sector of the construction industry. In all the circumstances of this application the Board finds that all employers of plumbers, plumbers' apprentices, steam fitters, steam fitters' apprentices and welders for whom the respondent has bargaining rights in the County of Simcoe, the District Municipality of Muskoka, the Townships of Rama, Mara and Thorah in the County of Ontario, and the Townships of Carling, Ferguson, McDougall, McKellar, Christie, Foley, Conger and Humphrey in the District of Parry Sound, in the residential and in the industrial, commercial and institutional sectors of the construction industry, constitute a unit of employers appropriate for collective bargaining.

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

7. Three employers failed to file returns. Having regard to the representations before it, the Board makes the following determination pursuant to section 115 of The Labour Relations Act:

- No. 1 Adshade Mechanical Ltd. - Final Schedule "E"
- No. 5 Fisher & Sayers - agreed to be removed from the list of employers.
- No. 6 Lloyd T. Bristow Ltd. - Final Schedule "F".

8. Having regard to the representations before it, the Board finds that Chemical Valley Fabricating Company Ltd. operates a fabricating shop and is not an employer within the meaning of section 106(c) of The Labour Relations Act and is accordingly not affected by this application for accreditation. In these circumstances the Board removes No. 3 - Chemical Valley Fabricating Company Ltd. from the list of employers.

9. On the basis of the foregoing, the filings by the individual employers and the representations before it, the Board has prepared the following lists of employers. The employers listed on Final Schedule "E" are employers who are indicated as having had employees affected by the application in the year preceding August 25, 1975 the date of the making of this application. The employers on Final Schedule "F" are indicated as not having had such employees.

Final Schedule "E"

Adshade Mechanical Ltd.
Bumstead's Electrical, Plumbing & Heating Ltd.
E. S. Fox Limited
Lou Bristow Plumbing & Heating Ltd.
Northland Plumbing & Heating Limited
Sexton's Sheet Metal & Heating Ltd.
(Mechanical Division)

Final Schedule "F"

Lloyd T. Bristow Ltd.

The Board finds that the 6 employers on Final Schedule "E" were those employers who had employees in the year immediately preceding the making of the application, and the number 6 is the number of employers to be ascertained by the Board under section 115(1)(a) of The Labour Relations Act.

10. 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 5 of the 6 employers on Final

Schedule "E". The 5 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.

11. 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 this application. On the basis of all the evidence and representations before it, the Board finds that there were 44 employees affected by this application during the payroll period immediately preceding August 25, 1975. The 44 employees is the number of employees to be ascertained by the Board under section 115(1)(c) of The Labour Relations Act.

12. The Board further finds that the 5 employers represented by the applicant employed 32 of these 44 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.

13. 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 five 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 August 25, 1975, obtain bargaining rights through certification or voluntary recognition in the geographic area and sectors set out in the unit of employers.

"R. A. Furness"
for the Board

February 5, 1976.