

ONTARIO LABOUR RELATIONS BOARD

Between:

The Ontario Erectors Association,

(Applicant),

- and -

International Association of
Bridge, Structural and
Ornamental Ironworkers, Local
Union 759,

(Respondent).

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

APPEARANCES: Robin B. Cumine, Walter R. Stevenson and
W. Jemison appearing for the applicant; L. Baillie
appearing for the respondent.

DECISION OF THE BOARD:

1. In this application for accreditation the applicant seeks to be accredited as the bargaining agent for certain employers which have a bargaining relationship with the respondent. The respondent is a party to a collective agreement with the Construction Association of Thunder Bay. This collective agreement became effective on signing and remains in effect until April 30, 1978. There is no question that more than one employer which is affected by this application is bound by this collective agreement. The Board therefore finds that it has jurisdiction under section 113 of The Labour Relations Act to entertain this application.

2. The applicant is an unincorporated association. In support of its application, the applicant filed a copy of its constitution and by-laws. Having regard to the material before it and to 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 has also initially filed in support of its application twenty-eight documents entitled "Authority of Employer to Ontario Erectors Association".

These documents appoint the applicant to act on behalf of the employer as its bargaining 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. At the conclusion of the hearing, the applicant endeavoured to file one additional authority of an employer as documentary evidence of representation. At the hearing the Board pointed out that pursuant to section 96(1) of the Board's Rules of Procedure evidence of representation of an employer by the applicant is required to be filed with the Board not later than the terminal date for this application. In addition, this requirement is clearly set forth in Form 60, Notice of Fixing Terminal Date Accreditation, Construction Industry, Before The Ontario Labour Relations Board, which was sent to the applicant. Since the one additional authority of an employer as documentary evidence of membership was filed after the terminal date, the Board has not considered such documentary evidence in making the determinations set forth in paragraph ten.

4. The collective agreement referred to in paragraph one applies to and is effective within all of the Districts of Kenora, Kenora Patricia, Rainy River, Thunder Bay and all area lying to the north of the 50th degree latitude in the District of Cochrane and east to the Quebec boundary. 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 following sectors of the construction industry: industrial, commercial and institutional, and, heavy engineering. In the circumstances of this application and having regard to the agreement of the parties, the Board finds that all employers of ironworkers for whom the respondent has bargaining rights in the Districts of Kenora, Kenora Patricia, Rainy River, Thunder Bay and all that area lying to the north of the 50th degree latitude in the District of Cochrane and east to the Quebec boundary in the industrial, commercial and institutional sector and in the heavy engineering sector of the construction industry, constitute a unit of employers appropriate for collective bargaining.

5. For the purpose of clarity the Board notes the agreement of the parties and declares that the term "iron-workers" does not include rodmen.

6. Notice of this application was given to 95 employers in accordance with the Board's Rules of Procedure.

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

- No. 4 Dominion Bridge Company Limited
(Winnipeg) - Final Schedule "E"
- No. 49 Sovereign Insulation - Final
Schedule "F"
- No. 63 Klub Construction Company Ltd.
- Final Schedule "F"
- No. 65 Horst Lang Construction - Final
Schedule "F"
- No. 67 Martens - Glenlea Industrial
Supply Ltd. - Final Schedule "F"
- No. 69 North Shore Equipment Distributors
- Final Schedule "F"
- No. 70 Perma Structures Ltd. - Final
Schedule "F"
- No. 75 Thunder Bay Door Services - Final
Schedule "F"
- No. 76 Lee Turzello Cont. Co. - Final
Schedule "F"
- No. 91 Pre Pad Inc. - Agreed by the
parties to be removed from the
list of employers because the
applicant does not have bargaining
rights for this employer.

8. On the basis of the filings of the following employers and on the representations of the parties, the following employers are removed from the list of employers:

- No. 32 Aisby Metal Works
- No. 54 The Carter Construction Company
(1973) Limited
- No. 64 K.T.S. Industries

9. 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 are indicated as having had employees affected by the application in the year preceding September 9, 1977, the date of the making of this application. Those on Final Schedule "F" are indicated as not having had such employees.

Final Schedule "E"

Barnett - McQueen Company Limited
BG Checo Engineering (Ontario) Limited
Dominion Bridge Company Limited (Winnipeg)
Frankel Structural Steel Limited
Gateway Building & Supply Limited
Great Lakes Steel Limited
Sillman Company (Northern) Limited
Westeel - Rosco Limited
A. J. Wing Construction Limited
Aktron Steel Ltd.
Comstock International Ltd.
Mid-Canada Welding & Structural Steel Inc.
Carr Steel Const. Ltd.
Tamarron Construction Limited
Link Steel Enterprises Limited
Commonwealth Construction Company Limited
Weldland Steel Ltd.
Empire Iron Works Ltd.
Universal Erectors Limited
D.F.D. Industries Ltd.
Newport Metal Industries Co. Limited
CEA Simon-Day Ltd.
Petro-Chem Projects Ltd.
Bridge & Tank Western Division of Bridge &
Tank Company of Canada Limited
Otto J. Eickhof & Sons, Inc.
Midland Ross of Canada Limited
Midway Sales 1966 Ltd.
Mobile Western Limited
Acco-Canadian Material Handling
Canron Limited
Adam Clark Company Limited
E.S. Fox Limited
Kawneer Installations Limited
Fraser Brace Ontario Co. Ltd.
Coastal Steel Construction Ltd.
New Idea Sheet Metal Company Limited

Final Schedule "F"

Dominion Bridge Company Limited (Toronto)
Tom Jones & Sons Limited
Niagara Structural Steel (St. Catharines) Limited
Northwestern Structural Steel Limited
Thunder Bay Harbor Improvements Limited
Zurmac Installation Limited
Phoenix Steel Products Ltd.
Mesley Machinery Movers & Erectors Ltd.
Fred Barbini Ltd.
Carl Berger Construction and Supplies Ltd.
G. & H. Steel Industries Limited
VSL Canada Ltd., a wholly owned subsidiary of
J. Harris and Sons Ltd.
Irwin Ready Mix Concrete (Division Canfarge Ltd.)
J. & L. Reinforcing Co. Ltd.
Jet Welding & Ornamental Iron Works Inc.
Mascarin Auto Body Limited
Nu-Steel Products Limited
Ennis Paikin Steel Limited
Road Win Contracting
Sovereign Insulation
Aalton Construction Co. Ltd.
A. P. Green Refractories (Canada) Ltd.
Brittain Steel Ltd.
Buset Bros. Contractors Limited
J. U. Calonego Construction Limited
Crittall Construction Limited
Cuyler Contracting Co. Limited
D. D. & B. Construction
Dineen Construction Limited
Dineen Roads & Bridges Limited
Dominion Bronze Limited
Environmental Technical Services Inc.
Klub Construction Company Ltd.
Horst Lang Construction
Paul A. Laurence Company
Martens - Glenlea Industrial Supply Ltd.
Northern Door Services
North Shore Equipment Distributors
Perma Structures Ltd.
Poole Construction Limited
Dwight Robinson Ltd.
Shopost Industries Ironworks Ltd.
Surety Construction Co. Ltd.
Thunder Bay Door Services
Lee Turzello Cont. Co.
Construction Division of United Grain
Growers Limited
Western Metals Corporation Ltd.

The Welding Shop (Thunder Bay) Ltd.
John Zatti Machinery & Supply Co. Ltd.
Stead & Lindstrom Limited
Brdige & Tank Company of Canada Limited
Robertson Building Systems Limited
Roger Forest Inc.
G. M. & H. O. Holmes Limited
Newman Structural Steel Limited

The Board finds that the 36 employers on Final Schedule "E" were those employers who had employees in the year immediately preceding the making of the application, and the number 36 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 this application, the applicant represented 19 of the 36 employers on Final Schedule "E". The 19 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 of 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 the evidence before it, the Board finds that there were 361 employees affected by this application during the payroll period immediately preceding September 9, 1977 or for such other weekly payroll period with respect to certain employers where the said payroll period immediately preceding September 9, 1977 was unsatisfactory. The 361 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 finds that the 19 employers represented by the applicant employed 305 of these 361 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 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 September 9, 1977, 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

January 16, 1978.