

ONTARIO LABOUR RELATIONS BOARD

Between:

Residential Sheet Metal Contractors
Organization,

(Applicant),

- and -

Sheet Metal Workers International
Association, Local Union #285,

(Respondent).

BEFORE: D. E. Franks, Vice-Chairman, and Board Members
E. J. Brady and B. L. Armstrong.

APPEARANCES: M. Addario, L. Cianfarani and W. Sutherland
for the applicant; J. Kurchak and M. Soucier for the
respondent.

DECISION OF THE BOARD:

1. This is an application for accreditation 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 applicant which was effective from May 15, 1980 to April 30, 1982 with provisions for continuance on operation subject to notice.

2. Having regard to the materials filed 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 125 of the Labour Relations Act.

3. The applicant association was incorporated by the issuance of Letters of Patent in September, 1968. In support of its application the applicant filed a copy of these Letters of Patent, Supplementary Letters of Patent dated November, 1975 and Articles of Association dated December, 1975. Having regard to this material and the

representations of the parties, the Board finds that the applicant is an employers' organization within the meaning of section 117(d) of the Labour Relations Act and it is satisfied that the applicant fulfills the requirements of section 127(3) of the Labour Relations Act.

4. The applicant filed in support of its application 26 documents entitled "Employer Authorization". These documents appoint the applicant to represent the employer-signatories as their bargaining agent with the respondent, and they further appoint the applicant as agent to make an application for accreditation under the Labour Relations Act. The applicant also filed a duly completed Form 88, Declaration Concerning Representation Documents, Application for Accreditation. The Board is satisfied that the evidence of representation meets the requirements set out in section 120 of the Board's Rules of Procedure, and the Board is satisfied that the individual employers on whose behalf the applicant has submitted evidence of representation have visited appropriate authority in the applicant to enable it to discharge the duties of an accredited bargaining agent.

5. The applicant and the respondent agree that the appropriate unit is as follows:

All employers of employees for whom the respondent has bargaining rights in the residential sector of the construction industry in the Municipality of Metropolitan Toronto, the Regional Municipalities of Peel and York, the Towns of Oakville and Halton Hills and that portion of the Town of Milton within the geographic Township of Esquesing, and the Towns of Ajax and Pickering in the Regional Municipality of Durham.

The Board finds that this unit of employers is appropriate for collective bargaining.

6. Notice of this application was given to 53 employers in accordance with the Board's Rules of Procedure.

7. Twenty-three employers filed returns. Having regard to all the materials filed and the representations made before it the Board makes the following determinations pursuant to section 127 of the Labour Relations Act.

Final Schedule "E"

1. Aerodynamical Testing & Balancing
2. Applewood Air Conditioning Ltd.
3. Aurora Heating
4. Bellwood Sheet Metal Ltd.
5. Birchcliff Sheet Metal Ltd.
6. Associated Mechanical Systems Inc.
7. Bratti Group (400534 Ont. Ltd.)
8. Brompton Mechanical
9. Canada Heating Ltd.
10. Coolbreeze Air Conditioning and Heating Ltd.
11. Dearie Contractors Ltd.
12. Denmark Heating and Cool Co. Ltd.
13. Diversified Sheet Metal Ltd.
14. Dixie Sheet Metal Ltd.
15. Don Park Inc.
16. Earls court Sheet Metal Mech. Ltd.
17. English and Mould Ltd.
18. Etobicoke Sheet Metal
19. Hendry Heating Ltd.
20. International Heating Ltd.
21. Innisfill Air Conditioning
22. Joh Mar Heating and Air Conditioning Inc.
23. Lanark Ventilation Systems Ltd.
24. Mar's Heating
25. North York Ventilation Ltd.
26. Principal Heating Co. Ltd.
27. Rexdale Heating Ltd.
28. S & S Sheet Metal Co.
29. Sun Technical Heating and Cooling Inc.
30. Tara Heating and Air Conditioning Ltd.
31. Tempo Heating and Air Conditioning Ltd.
32. Torbram Sheet Metal Inc.
33. Toronto Air Conditioning (1981) Ltd.
34. TUJ Ventilation and Engineering Systems
35. J. W. Watson Heating and Air Conditioning Ltd.
36. Westend Sheet Metal Co. Ltd.
37. Weston Sheet Metal Co.
38. Frank Winter Heating and Mechanical Inc.

39. York Sheet Metal Ltd.
40. Christie Sheet Metal Ltd.

Final Schedule "F"

1. Duffy Mechanical Cont. Ltd.
2. G & H Mechanical
3. Leslie Brothers (1966) Ltd.
4. Malton Sheet Metal
5. Mo Mek Systems Ltd.
6. Municipal Sheet Metal and Air Conditioning
7. Sayers & Associates Ltd.
8. Celsius Ventilation Systems Ltd.
9. Bermar Air Systems

The Board finds that the 40 employers on Final Schedule "E" were those employers who had employees in the year immediately preceding the making of the application, and the number 40 is the number of employers to be ascertained under section 127(1)(a) of the Labour Relations Act.

8. 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 23 of the 40 employers on the Final Schedule "E" and that 23 is the number to be ascertained by the Board under section 127(1)(b) of the Labour Relations Act. Accordingly, the Board is satisfied that a majority of the employers in the unit of employers are represented by the applicant.

9. By section 127(1)(c) of the Labour Relations Act, the payroll period immediately preceding the making of the application is the relevant weekly payroll period of determining the number of employees affected by this application. On the basis of the evidence before it, the Board finds that there were 198 employees affected by this application during the payroll period immediately preceding March 4, 1982 and that 198 is the number to be ascertained under section 127(1)(c) of the Labour Relations Act.

10. The Board finds that the 23 employers represented 160 of these 198 employees. The Board is satisfied that the employers represented by the applicant employed a majority of the employees affected by this application as ascertained in accordance with section 127(1)(c) of the Labour Relations Act.

11. Having regard to the representations of the parties and pursuant to section 1(4) of the Labour Relations Act, the Board finds that S & S Sheet Metal Co., M & W Sheet Metal and Rennie Sheet Metal are one employer for the purposes of this application.

12. Having regard to all of the above findings, a Certificate of Accreditation will issue to the applicant for all employers of employees for whom the respondent has bargaining rights in the residential sector of the construction industry in the Municipality of Metropolitan Toronto, the Regional Municipalities of Peel and York, the Towns of Oakville and Halton Hills and that portion of the Town of Milton within the geographic Township of Esquesing, and the Towns of Ajax and Pickering in the Regional Municipality of Durham, and in accordance with section 127(2) of the Labour Relations Act, for such other employers for whose employees the respondent may obtain or has obtained bargaining rights after March 9, 1982.

"D. E. Franks"
for the Board

September 23, 1982