

ONTARIO LABOUR RELATIONS BOARD

Between:

Windsor Electrical Contractors
Association,

Applicant,

- and -

International Brotherhood of
Electrical Workers, Local Union
773,

Respondent.

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

APPEARANCES AT THE HEARING: W. S. Cook and G. T. Howe appearing
for the applicant; no one 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 applicant. This collective agreement was entered into on May 1, 1973, and expired on April 30, 1975. 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 a corporation. In support of its application the applicant filed a copy of its Letters Patent dated March 1, 1967, given by the Provincial Secretary and Minister of Citizenship for the Province of Ontario. These Letters Patent create the Windsor Electrical Contractors Association a corporation without share capital. The applicant also filed a copy of its Supplementary Letters Patent dated October 25, 1971, given by the Minister of Financial and Commercial Affairs and a copy of its bylaws. On the basis of the material before it, the Board is satisfied that the applicant is an employers' organization within the meaning of section 106(d) of The Labour Relations Act and that it is a properly constituted organization for the purposes of section 115(3) of The Labour Relations Act.

3. The respondent in a letter to the Board protested this application for accreditation and referred to section 115(5) of The Labour Relations Act. However, the respondent neither provided particulars of its protest nor attended at the hearing. In these circumstances, there is nothing before the Board which supports the respondent's protest. In these circumstances, there is nothing before the Board which would support a finding that the Board should not accredit the applicant.

4. The applicant also filed in support of its application 23 documents entitled Employer Authorization. These documents appoint the applicant to represent the employer as its bargaining agent with the respondent and they further 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.

5. The collective agreement which is referred to in paragraph one herein is effective within Essex County. Having regard to the representations before it, the Board finds that employees have been employed in the industrial, commercial and institutional sector in the residential sector. The Board further finds that all employers of journeymen electricians and apprentices for whom the respondent has bargaining rights in the County of Essex in the industrial, commercial and institutional sector and in the residential sector, constitute a unit of employers appropriate for collective bargaining.

6. Notice of this application was given to 44 employers in accordance with the Board's Rules of Procedure.

7. Eighteen 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. 1 AAA Electric Co. - Final Schedule "E"
- No. 2 Alliance Electric- Final Schedule "E"
- No. 5 Arctic Electric Air - Final Schedule "F"
- No. 9 Comstock International Limited -
Final Schedule "E"
- No. 10 Consolidated Power Constructors Ltd. -
Final Schedule "F"

- No. 11 Consumers Electric Ltd. - Final Schedule "E"
- No. 15 Fahrhall Mechanical Contractors Limited - Final Schedule "E"
- No. 16 Fraser-Vien Ltd. - Final Schedule "E"
- No. 18 Holek-Vollmer Corporation Limited - Delete (discontinued business operations)
- No. 23 Logan's Electric - Final Schedule "F"
- No. 25 Marine Electric Ltd. - Final Schedule "E"
- No. 29 Nantais Electric - Final Schedule "E"
- No. 30 Nor Con Electric Co. - Delete (discontinued business operations)
- No. 31 O'Neil Electric - Final Schedule "E"
- No. 32 Parr Bros. Electric Limited - Final Schedule "E"
- No. 33 Poirier Electric Ltd. - Final Schedule "E"
- No. 34 Power Line Construction Limited - Final Schedule "E"
- No. 39 Spider Installations Limited - Final Schedule "E"

8. One employer filed a reply and claimed that the respondent is not entitled to bargain on behalf of the employees of the employer affected by this application. In written submissions to the Board the applicant and the respondent have agreed that the respondent does not have bargaining rights for the employees of this employer who are affected by this application. Accordingly, the following employer is deleted from the list of employers:

No. 41 Steamer Electric Limited.

9. Having regard to the representations before it, the Board finds that one employer is not operating a business in the construction industry within the meaning of section 106 (c) of The Labour Relations Act. Accordingly, the following employer is deleted from the list of employers:

No. 36 Rorison Industrial Ltd.

10. One employer filed a reply and claimed that it is no longer operating a business and has had no employees since 1973. This position has not been disputed by either the applicant or the respondent. In these circumstances, the following employer is deleted from the list of employers:

No. 24 Mac J. Brian Limited.

11. One employer filed a reply and claimed that the respondent is not entitled to bargain on behalf of the employees of the employer affected by the application. This employer also claimed that it had not employed employees affected by this

application within one year prior to the date of the making of the application. Having regard to the representations before it, the Board finds that this employer has discontinued its business operation and is accordingly deleted from the list of employers:

No. 7 Bennett & Wright (Eastern) Ltd.

12. On the basis of the foregoing, the filings by individual employers and the representations before it, the Board has prepared the following lists of employers. The employers listed on Final Schedule "E" are the employers who are indicated as having had employees affected by the application in the year preceding October 15, 1974, 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"

AAA Electric Co.
Alliance Electric
Black & McDonald Limited
Comstock International Limited
Consumers Electric Ltd.
Domestic Electric (Windsor) Ltd.
Ebbinghaus Electric Limited
Electric Heating of Windsor Limited
Fahrhall Mechanical Contractors Limited
Fraser - Vien Ltd.
H. Pare Electrical Contractors Windsor
Limited
KNR Electric
Lacy Electric Ltd.
Lessard Electric Limited
Marine Electric Ltd.
Miar Industries Limited
Moncur Electric Motors Limited
A.M.J. Holdings Ltd. carrying on
business as Murray Johnson Electric Co.
Nantais Electric
O'Neil Electric
Parr Bros. Electric Limited
Poirier Electric Ltd.
Power Line Construction Limited
Rorison Industrial Electric Co. Limited
Roscoe Electric (Windsor) Limited
Spider Installations Limited
The State Electric Company Limited
Ternovan Electric Limited
Tucker Electric Limited
Waffle's Electric Limited

Final Schedule "F"

Ainsworth Electric Co. Limited
A. Rossini & Sons Electrical Contractors
Arctic Electric Air
Chatham Electric Co. Limited
Consolidated Power Constructors Ltd.
H. Furer Electric Limited
Logan's Electric
S./M. Electric Blenheim Limited

The Board finds that the 30 employers on Final Schedule "E" were those employers who had employees in the year immediately preceding the making of the application, and the number 30 is the number of employers to be ascertained by the Board under section 115(1)(a) of The Labour Relations Act.

13. 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 16 of the 30 employers on Final Schedule "E". The 16 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.

14. 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 199 employees affected by this application during the payroll period immediately preceding October 15, 1974. The 199 employees is the number of employees to be ascertained by the Board under section 115(1)(c) of The Labour Relations Act.

15. The Board further finds that the 16 employers represented by the applicant employed 168 of these 199 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.

16. 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 October 15, 1974, obtain bargaining rights through certification or voluntary recognition in the geographic area and sector set out in the unit of employers.

"R. A. Furness"
for the Board

September 10, 1975.