

ONTARIO LABOUR RELATIONS BOARD

Between:

Canadian Automatic Sprinkler Association,  
Applicant,

- and -

United Association of Journeymen and  
Apprentices of the Plumbing and Pipe  
Fitting Industry of the United States  
and Canada, Local 787,

Respondent.

BEFORE: D.E. Franks, Vice-Chairman, and Board Members  
H.J.F. Ade and E. Boyer.

APPEARANCES AT THE HEARING: R.C. Fillion and W. Clark  
for the applicant; Raymond Koskie and A. McBride for  
the respondent.

DECISION OF THE BOARD:

1. This is an application for accreditation in which the applicant seeks to be accredited as the bargaining agent for certain employers who have a bargaining relationship with the respondent. As part of its application the applicant filed a copy of a collective agreement in effect from November 1, 1971 to June 30, 1973. Negotiations were held for renewal of this agreement and a new collective agreement was reached in effect from September 8, 1973 to June 30, 1975. A copy of this agreement was filed by the respondent. This current agreement is similar to the previous one with respect to the recognition provisions. Reference is made to recognition provisions in Board File No. 2252-72-R, whereby the Board found that by reason of merger, amalgamation or transfer of jurisdiction, the respondent has acquired all the rights, privileges and duties of Local 379 of the United Association of Journeymen and Apprentices of The Plumbing and Pipe Fitting Industry of the United States and Canada; which Local was the bargaining agent of all sprinkler fitters and apprentices employed by the members of the applicant in the Province of Ontario. This agreement is binding on more than one employer in the geographic area and sector which are the subject matter of this application. The Board therefore finds that it has jurisdiction under section 113 of the Act to entertain this application for accreditation.

2. The applicant filed with its application a copy of Letters Patent incorporating the Canadian Automatic Sprinkler Association. The Letters Patent are dated the 10th day of October, 1961 and create a Corporation without share capital. By Supplementary Letters Patent granted on the 22nd day of January, 1973, by the Minister of Consumer and Corporate Affairs, the objects were varied to include "the power to become an accredited employers' bargaining agent either alone or jointly with other associations or organizations under The Labour Relations Act or any or all provinces or territories of Canada, or any legislation substituted therefore or similar thereto as amended from time to time, and to regulate relations between employers and employees engaged in the installation and repair of automatic sprinkler and fire protection equipment in the construction industry in Canada and to represent such employers in collective bargaining within any Province or territory in Canada, and to discharge the responsibilities of an accredited or registered bargaining agent in the administration of the collective agreement or collective agreements entered into on behalf of its members or other persons". On the basis of all the evidence, the Board is satisfied that the applicant employers' organization is an employers' organization within the meaning of section 106(d) of the Act and that it is a properly constituted organization for the purposes of section 115(3) of the Act.

3. In support of its application, the applicant filed documentary evidence of representation on behalf of thirteen (13) employers. This evidence is entitled "Employer Authorization" and in each case is signed on behalf of the individual employer giving such authorization. The authorizations are in a standard form and the effect of each is to appoint the applicant association to represent the individual employer as bargaining agent in regard to the employees covered by a collective agreement with the respondent in the geographic area and sector of the construction industry which are the subject of this application. Each authorization also vests in the applicant "all necessary authority...to enable it to discharge the responsibilities of an accredited bargaining agent under The Labour Relations Act". 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 applicant has applied for a unit of employers consisting of "employers of journeymen sprinkler fitters and their apprentices for whom the respondent has bargaining rights in the Province of Ontario in the industrial, commercial and institutional sector, the residential sector, the sewers, tunnels and watermains sector and the heavy engineering sector of the construction industry". The applicant and the respondent assured the Board at the hearing in this matter that the collective agreements referred to in paragraph 1 supra have been applied in all of the sectors of the construction industry which the applicant claims are appropriate for accreditation. The Board therefore further finds that all employers of journeymen sprinkler fitters and their apprentices for whom the respondent has bargaining rights in the Province of Ontario in the industrial, commercial and institutional sector, the residential sector, the sewers, tunnels and watermains sectors and the heavy engineering sector of the construction industry, constitute a unit of employers appropriate for collective bargaining.

5. As a result of filings by the applicant and the respondent notice of application was served on fifteen (15) employers in accordance with the Board's Rules of Procedure. The fifteen (15) employers served made filings in the form of Employer Filing (Form 68) and Schedule "H". Employer No. 7, H. G. Francis and Sons Limited stated in its return that the work week preceding the date of the application was not representative. Counsel for the respondent stated that this will not in any way affect the application and further stated that during busy months the representative number of employees of the said employer will be seven (7). However, it was to the Board's discretion whether or not to accept this. Finding that this will not in any way affect the application, the Board is prepared to accept that a representative number of employees for Employer No. 7, H. G. Francis and Sons Limited, is seven (7). The Board has taken as the correct name of each individual employer the name stated in Form 68 filed by the employer. As no other arguments arose from the filings of the other fourteen (14) employers, the Board will accept such filings; thus the final Schedule "E" will contain all fifteen (15) employers:

Adam Clark Company Ltd.  
Automatic Sprinkler Limited  
Bennett & Wright (Eastern) Limited  
Clow Darling Plumbing & Heating Co. Ltd.  
Duncan Reynolds Limited  
Grinnell Fire Protection Systems Company Ltd.  
H. G. Francis and Sons Limited  
Niagara Mechanical Contractors  
S. O. Sprinkler Co. Inc.  
Smith & Elston Co. Limited  
Staden Protection Services Limited

Verhey Sprinkler Limited  
Viking Fire Protection Limited  
Vipond Automatic Sprinkler Company Limited  
York Fire Protection

The Board finds that the number of employers on the Final Schedule "E" totalling fifteen (15) employers is the number of employers to be ascertained by the Board under section 115(1)(a) of the Act.

6. On the basis of all the evidence before us the Board finds that on the date of the making of the application the applicant represented thirteen (13) of the fifteen (15) employers to be ascertained as the number of employers under section 115(1)(a) of the Act. The thirteen (13) employers so represented is the number of employers to be ascertained by the Board under section 115(1)(b) of the Act. Accordingly, the Board is satisfied that the majority of the employers in the unit of employers are represented by the applicant.

7. The entitlement of an employers' organization to accreditation is based on a "double" majority. We have now dealt with the first of the majorities that an applicant must obtain, a majority of employers in the unit of employers. We now turn to determine whether those employers employed a majority of the employees affected by this application. The Schedule "H" which accompanied the Form 68, Employer Filing, filed by the individual employers sets out the number of employees that the employer had at each job site with details of the location and the type of construction involved. By section 115(1)(c) of the Act the relevant payroll period is the weekly payroll period immediately preceding the making of the application, in this case the weekly payroll period immediately preceding July 24, 1973. The Board is satisfied that such a payroll period is the satisfactory payroll period for the determination in section 115(1)(c) of the Act.

8. On the basis of all the evidence before us and in accordance with the foregoing considerations the Board finds that there were four hundred and ninety-five (495) employees affected by the application during the weekly payroll period immediately preceding July 24, 1973. The four hundred and ninety-five (495) employees is the number of employees to be ascertained by the Board under Section 115(1)(c) of the Act.

9. The Board further finds that the thirteen (13) employers represented by the applicant employed four hundred and ninety-one (491) of these four hundred and ninety-five (495) employees. The Board is therefore satisfied that the majority of employers represented by the applicant employed a majority of the employees

as ascertained in accordance with the provisions of section 115(1)(c) of the Act.

10. 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 4 above, and in accordance with the provisions of section 115(2) of the Act and for such other employers for whose employees the respondent may after July 24, 1973, obtain bargaining rights through certification or voluntary recognition in the geographic area and sector set out in the unit of employers.

March 14, 1974

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"D. E. Franks"  
for the Board