

ONTARIO LABOUR RELATIONS BOARD

Between:

Waterloo-Wellington Sheet Metal
Contractors Association,

Applicant,

- and -

Sheet Metal Workers' International
Association Local Union 562,

Respondent.

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

APPEARANCES AT THE HEARING: Brian Morison, Q.C., and
George Moller for the applicant; William Scriven for the
respondent.

DECISION OF THE BOARD:

1. The name "Sheet Metal Workers International Association Local 562" appearing in the style of cause of this application as the name of the respondent is amended to read: "Sheet Metal Workers' International Association Local Union 562".
2. The respondent is signatory to a standard form of collective agreement with a number of individual contractors in effect from May 1, 1971 to April 30, 1973. 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 the jurisdiction under section 113 of the Act to entertain this application for accreditation.
3. The applicant filed with its application a true copy of the letters patent incorporating the Waterloo-Wellington Sheet Metal Contractors Association. The letters patent are dated the 7th day of June, 1972 and create a corporation without share capital with objects that include -

- (d) to apply for accreditation or to obtain voluntary recognition as the bargaining agent for all sheet metal contractor employers in the

geographic area and particular sector of the industry described in any order of certification, voluntary recognition documents or collective agreements as the case may be.

The applicant also filed a true copy of By-law No.1 of the Waterloo-Wellington Sheet Metal Contractors Association which was approved, ratified and confirmed by the members of that association on the 19th day of June, 1972. That By-law contains in paragraph 19 the following provision:

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- (19) The Association may, in its own name or in the name of any body of group to which authority has been properly delegated make application for accreditation within any sector or sectors in any geographical area or areas as defined under the Labour Relations Act or as determined by the Labour Relations Board, and each of the members of the Association who are affected shall be deemed to have authorized such application or applications on its behalf.

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.

4. The applicant filed with its application eight (8) documents entitled Collective Bargaining Authorization Power of Attorney. These documents appoint the applicant as the bargaining agent for the named employer on the document in regard to the employees covered by the collective bargaining relationship with the respondent trade union. The documents are signed on behalf of the various individual employers. The Board therefore finds that the applicant has submitted acceptable evidence of representation in accordance with section 96 of the Board's Rules and Procedure on behalf of the eight (8) employers. The Board is further satisfied that those employers who are represented by the applicant have vested sufficient authority in the applicant to discharge the responsibilities of an accredited employers' organization on their behalf.

5. In its application the applicant suggested the following appropriate unit of employers for this application:

"All employers engaged in the sheet metal contracting division of the construction industry in the geographic area as set out in

Schedule "A" attached hereto in the industrial, commercial and institutional sector of the construction industry where the business of sheet metal work is carried on".

Schedule "A" reads as follows:

"In the cities of Kitchener, Waterloo, Guelph and Galt and in the counties of Waterloo, Wellington, Grey and Perth, excepting the township of Blanchard, Downie, Fullerton, Hibert and Logan, and including all the municipalities contained therein".

6. The respondent on the other hand suggested the following unit of employers:

"In the cities of Kitchener, Waterloo, Guelph and Galt and in the counties of Waterloo, Wellington, Grey and Perth, excepting the township of Blanchard, Downie, Fullerton, Hibert and Logan, and including all the municipalities contained therein".

7. The geographic area referred to by both the applicant and the respondent is the geographic area of the collective agreement referred to in paragraph 2 above. In describing a geographic area covered by the unit of employers it will not be necessary to refer to the cities within the geographic area having regard to the Board's view in construction industry cases that the area described includes any municipalities therein. Accordingly, the Board finds that all employers of sheet metal workers and sheet metal workers' apprentices in the Counties of Waterloo, Wellington, Grey and Perth, except the townships of Blanchard, Downie, Fullerton, Hibert and Logan in the industrial, commercial and institutional sector of the construction industry constitutes the unit of employers appropriate for collective bargaining.

8. The list of employers affected by this application contains the names of eleven (11) employers. All of the employers on the list have made the appropriate filings in Form 68 and Schedule "H". The employer interventions indicate that the respondent is entitled to bargain on behalf of all the employers appearing on the list of employers. Further, all employers on the list have had employees in the year immediately preceding

August 4, 1972, the date of the making of the application. Thus, all the employers on the list of employers will appear on final Schedule "E". In drawing the final Schedule "E", the Board has taken as the correct names of the employers the names given by the employer on the Form 68 filed with the Board. Final Schedule "E" is as follows:

FINAL SCHEDULE "E"

Brathwaite Roofing Limited
N.W. Clayton Company Limited
Hareco Guelph Ltd.
Hebel Sheet Metal
Hutchison Mechanical Installations Ltd.
Nelco (Kitchener) Limited
Robertson-Irwin Limited
S.E. Rozell & Sons Limited
Sutherland - Schultz Limited
Thackery Roofing Company Ltd.
Walden Roofing and Sheet Metal Company Limited

The Board finds that the eleven (11) employers on the final Schedule "E" were those employers who had employees in the year immediately preceding the making of the application and the number eleven (11) is the number of employers to be ascertained by the Board under section 115(1)(a) of the Act.

9. 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 eight (8) of the eleven (11) employers on Final Schedule "E". The eight (8) employers 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 a majority of the employers in the unit of employers are represented by the applicant.

10. The Schedule "H" which accompanied the Form 68, Employer Intervention, filed by the individual employers sets out the number of employees that the employer intervener has at each job site with details of the location and the type of construction involved. By section 115(1)(c) of the 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. The Board is satisfied that the weekly payroll period immediately preceding August 4, 1972, is a satisfactory payroll period for the determination in section 115(1)(c) of the Act. On the basis of all the evidence before us and in accordance with the foregoing considerations the Board finds that there were one hundred and fifty-one (151) employees affected by the application during the payroll period immediately preceding August 4, 1972. The one hundred and fifty-one (151) employees is the number of employees to be ascertained by the Board under section 115(1)(c) of the Act.

11. The Board further finds that the eight (8) employers represented by the applicant employed one hundred and forty-one (141) of these one hundred and fifty-one (151) employees. The Board is therefore satisfied that the majority of employers represented by the applicant employed a majority of the employees affected by the application as ascertained in accordance with the provisions of section 115(1)(c) of the Act.

12. 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 7 and in accordance with the provisions of section 115(2) of the Act for such other employers for whose employees the respondent may after August 4, 1972, obtain bargaining rights through certification or voluntary recognition in the geographic area and sectors set out in the unit of employers.

April 27, 1973

"D. E. Franks"
for the Board