

ONTARIO LABOUR RELATIONS BOARD

Between:

Metropolitan Toronto Residential
Painting Contractors Association,

(Applicant),

- and -

Local 1891 of the Ontario Council
of the International Brotherhood
of Painters and Allied Trades,

(Respondent),

- and -

Architectural Glass & Metal
Contractors Association,

(Intervener #1),

- and -

Ontario Painting Contractors
Association,

(Intervener #2).

BEFORE: D. E. Franks, Vice-Chairman, and Board Members
T. G. Armstrong and O. Hodges.

APPEARANCES: R. D. Perkins and Frank Lavalle for the
applicant; A. Colafranceschi for the respondent;
No one appearing for Intervener #1 and for Intervener #2.

DECISION OF THE BOARD:

1. This is an application for accreditation.
At the time the application was made on June 1, 1979,
there was in effect a collective agreement dated May 9,
1978 between the Metropolitan Toronto Residential

Contractors Association (hereinafter referred to as "the applicant") and Local 1891 of the Ontario Council of the International Brotherhood of Painters and Allied Trades (hereinafter referred to as "the respondent"). That collective agreement was on more than one employer in the area and sector which are the subject matter of this application. The Board therefore finds that it has jurisdiction under section 113 of The Labour Relations Act to entertain this application.

2. The Ontario Painting Contractors Association and the Architectural Glass & Metal Contractors Association having interviewed in this matter, subsequently notified the Board that they were withdrawing their interventions.

3. The applicant filed with the application a copy of its Charter dated September 20, 1976 which includes inter alia, the following "objects clauses":

- (c) to act as an employers' organization pursuant to the provisions of The Labour Relations Act in effect from time to time.
- (f) to become an accredited Employers' Organization under The Labour Relations Act, as amended from time to time, or any legislation substituted therefor and to regulate relations between employers and employees in the residential, painting and decorating trade and all ancillary and allied trades and represent such employers in collective bargaining within any sector or sectors in any geographical area or areas as required in The Labour Relations Act or determined by the Labour Relations Board.

4. On the basis of all the evidence before it, the Board is satisfied that the applicant employers' organization 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 purpose of section 115(3) of the Act.

5. The applicant has filed with its application evidence on behalf of 38 employers. The evidence of representation is accompanied by a duly completed Form 62, Declaration Concerning Membership Documents. The evidence of representation is in the form of an employer authorization by which an individual employer appoints the applicant association to represent that employer as its bargaining

agent in regard to the employees covered by the collective agreement with the respondent in the geographic area and the sectors of the construction industry which form the basis of this application. The Board is, therefore, satisfied that the applicant has filed evidence of representation on behalf of 38 employers and the Board is satisfied that the individual employers have vested appropriate authority in the applicant to enable it to discharge the responsibilities of an accredited bargaining agent.

6. On the basis of the agreement of the parties, the Board finds that all employers of painters and painters apprentices save and except non-working foreman represented by Local 1891 of the Ontario Council of the International Brotherhood of Painters and Allied Trades in Metropolitan Toronto, the Regional Municipality of York and the County of Peel, the Township of Esquesing and the Towns of Oakville and Milton in the County of Halton and the Township of Pickering in the County of Ontario in the residential sector, constitutes a unit of employers appropriate for collective bargaining.

7. As a result of the filings by the applicant and the respondent, the Examiner previously appointed by the Board drew up a list of 45 employers who might be affected by this application. Notice of this application and of the hearing in Form 67 was served on each of the employers by the Registrar in accordance with the Board's Rules of Procedure. Some employers who have made filings have indicated that the proper name of the employer making the filing is different from that on the original list of employers. The Board proposes to use the name of the employer as set out in the employer's filing in Form 68 as the correct name of the employer.

8. On the basis of the filings, the applicant and the respondent have agreed to remove the North American Painting & Decorating Ltd (No. 45) from the list of employers in the unit of employers, since it was not covered by a collective agreement with the respondent trade union on the date of this application.

9. A number of employers served with notice of the application have made no filings in Form 68. In such situations, the Board has taken the view that these employers ignore these proceedings at their own peril and the Board deals with these employers on the basis of the material before it and on the representations of the parties. With respect to these employers, the Board accepts the agreement of the parties as to the manner in which they should be dealt with by the Board.

10. Three employers, namely, Albo Painting (No. 4), DiMaria Painting & Decorating (No. 14) and Lyn-Tone Drywall Co. Ltd. (No. 22) have indicated that they are no longer in business. The Board is of the view that these employers should be included in the Final Schedule "F".

11. Five other employers, namely, B & L Painters (No. 8), Harbord Painting Ltd. (No. 20), Piccolo Bros Ltd. (No. 30), Roncali Brothers Limited (No. 33), Rino Zanatta Painting Contractor Ltd. (No. 38) and 337061 Ontario Limited (No. 43) are place on the Final Schedule "E" on the basis that they were, at the material time, bound by a collective agreement with the respondent and that they were making contributions to the Welfare and Vacation Pay trust funds of the respondent.

12. King's Painting Co. (No. 21) and Lomar Painting & Decorating (No. 28) were bound by collective agreements with the respondent and were making contributions to the latters trust funds. However, since they did not employ any employees during the twelve-month period preceding the application, they are place on Final Schedule "F".

13. The Board accepts the representations of the remaining employers who have made filings and as a result of these filings and the above considerations, the Board has drawn up the following Final Schedule "E" and Final Schedule "F".

FINAL SCHEDULE "E"

Accord Painting & Decorating Ltd.
Alba Painting & Decorating Ltd.
Associatied Color Consultants Limited
Alpine Painting Contractors Ltd.
Benson & DeCillia Limited
B & L Painters
Cliffside Painting & Decorating
Crestline Painting & Decorating Ltd.
DeSousa Painters Ltd.
Dominion Painting & Decorating Ltd.
Easy Painters Ltd.
Elio Painting Ltd.

G. O. S. Painting & Decorating Ltd.
Harbord Painting Ltd.
Marino Painting & Papering Ltd.
Maple Painting & Contracting Ltd.
Montrose Painting Co. Ltd.
Piccolo Bros. Ltd.
Silvano Bros. Painting
Roncali Brothers Limited
Three Bell Painters Ltd.
T & G Vergura Painting & Decorating Ltd.
Rino Zanatta Painting Contractor Ltd.
Tovin Construction Ltd.
337061 Ontario Limited
Gallace Painting & Decorating Co. Ltd.

FINAL SCHEDULE "F"

Accurate Painting Company Ltd.
Albo Painting
Cannito Painting
Concord Painting & Wallpapering
DiMaria Painting & Decorating Contract
Geoffry Crompton & Associates Inc.
King's Painting Co.
Lyn-Tone Drywall Co. Ltd.
Magic Color Painting Co. Ltd.
Muzich Painting Limited
Lomar Painting & Decorating
C. Pellegrino Painting & Decorating Co.
Angelo Ramanin Painting Co. Ltd.
V & T Painting
White Rose Painting
Toromark Painting
S. Perotta & Son Limited
T. & U. Painting & Wallpaper Co. Ltd.

14. The Board further finds that the 26 employers on the Final Schedule "E" are the employers who had employees in the twelve months immediately preceding the date of this application and that the number 26 is the number of employers to be ascertained by the Board under section 115(1)(a) of the Act.

15. On the basis of all the evidence before it, the Board further finds that on the date of the making of this application the applicant represented 22 of the 26 employers on Final Schedule "E". In other words, of the 38 employer "authorizations" filed by the applicant, 22 were on behalf of employers which this Board has included in Final Schedule "E".

16. The Schedule "H" which accompanied the Form 68 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 this 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 June 1, 1979 is a satisfactory payroll period for the determination in section 115(1)(c) of the Act.

17. On the basis of the evidence before it and in accordance with the foregoing considerations, the Board further finds that there were 231 employees affected by this application. During the payroll period determined in accordance with section 115(1)(c) of the Act, the 231 employees is the number of employees to be ascertained by the Board under section 115(1)(c) of the Act.

18. The Board finds that the 22 employers represented by the applicant employers' organization employed a total of 212 employees in the relevant weekly payroll period. The Board is therefore satisfied that the majority of employers represented by the applicant employed a majority of employees, i.e., 212 out of 231, as ascertained in accordance with the provisions of section 115(1)(c) of the Act.

19. Having regard to all of the above findings, a certificate of accreditation will issue to the applicant for the unit of employers in paragraph 6 above, and in accordance with the provisions of section 115(2) of the Act for such other employers for whose employees the respondent may after June 1, 1979 obtain bargaining rights

through certification or voluntary recognition in the geographic area and sectors set out in the appropriate unit of employers.

"D. E. Franks"
for the Board

February 19, 1981