

ONTARIO LABOUR RELATIONS BOARD

Between:

Mechanical Contractors Association of
London,

Applicant,

- and -

The United Association of Journeymen and
Apprentices of the Plumbing and Pipe Fitting
Industry of the United States and Canada
Local 593,

Respondent.

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

APPEARANCES AT THE HEARING: B.W. Binning, J.M. Watson
and L.C. Wickett for the applicant; no one appearing
for the respondent; B.W. Binning for Barber-Colman of
Canada Limited; Honeywell Limited; Johnson Controls Ltd.;
Powers Regulator Company of Canada Limited.

DECISION OF THE BOARD:

1. The name "Local Union 593 of the United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada" appearing in the style of cause of this application as the name of the respondent is amended to read: "The United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada Local 593.
2. The applicant and the respondent are parties to a collective agreement dated May 1, 1971. This agreement applies to more than one employer in the area and sector which are the subject matter of this application, and accordingly the Board finds that it has jurisdiction under section 113 of the Act to entertain this application for accreditation.
3. The applicant filed with its application a true copy of Letters Patent dated September 18, 1967. These Letters Patent create the Mechanical Contractors Association of London as a Corporation without share capital. The applicant also filed a true copy of Supplementary Letters Patent dated August 2, 1972, which modified the objects set out in the original Letters Patent. Included in the objects of the Corporation are the following provisions:

(c) TO represent all members and non-members who authorize the Corporation to act on their behalf in the negotiation, general application, administration and interpretation of collective agreements and in the arbitration of any labour disputes;

(j) TO become an accredited employers' organization under The Labour Relations Act and to regulate the relations between employers and employees in the construction industry and to represent such employers in collective bargaining with any sector or sectors of the construction industry in any geographical area or areas as defined under The Labour Relations Act, or as determined by The Labour Relations Board.

4. The applicant also filed a true copy of By-law No. 3 of the Mechanical Contractors Association of London certified a true copy by the Secretary of the Mechanical Contractors Association of London and under the seal of that Corporation. The By-law was confirmed by the members of the Corporation at a special general meeting on September 29, 1971. The By-law includes the following provision in Article 3(j):

ARTICLE 3

(j) The Board of Directors may apply to have the corporation become an accredited employer's organization under The Labour Relations Act and to regulate the relations between employers and employees in the construction industry and to represent such employers in collective bargaining with any sector or sectors of the constructions industry in any geographical area or areas as defined under The Labour Relations Act or as determined by the Labour Relations Board.

Accordingly, the Board is satisfied that the applicant employers' organization is an employers' organization within the meaning of section 105(d) of the Act and that it is a properly constituted organization for the purposes of section 115(3) of the Act.

5. The applicant filed with its application twenty-nine (29) documents entitled Employer Authorizations. These Employer Authorizations appoint the applicant to represent the named employer as bargaining agent for itself and other employers with regard to the employees covered by the collective agreement with the respondent. The Employer Authorizations are signed on behalf of the

employer. The Board therefore finds that the applicant has submitted acceptable evidence of representation in accordance with section 96 of the Board's Rules of Procedure on behalf of twenty-nine (29) 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.

6. The applicant has requested to be certified for a unit of employers which affects the five County area consisting of the Counties of Elgin, Middlesex, Oxford, Perth and Huron. This is the area set out in the collective agreement referred to in paragraph 2 above. The Board therefore finds that all employers of plumbers, plumbers' apprentices, steamfitters, steamfitters' apprentices and welders for whom the respondent has bargaining rights in the Counties of Elgin, Middlesex, Oxford, Perth and Huron in the industrial, commercial and institutional sector of the construction industry, constitute a unit of employers appropriate for collective bargaining.

7. The list of employers affected by this application includes twenty-six (26) employers on Revised Schedule "E" and seven (7) employers on Revised Schedule "F". All these employers have been given notice of the application in Form 67 and all but nine (9) have made the appropriate filings in Form 68 and Schedule "H". One of the employers who made no filing, E-2 - Anchor Mechanical Contracting Ltd. - apparently did not receive notice of the application because the registered mail sent to this employer was returned "Unknown". Accordingly this employer has been deleted from the list of employers in the unit of employers.

8. With respect to the remaining eight (8) employers who have received notice of the application and who have made no filings the applicant at the hearing made representations with respect to six (6) of these employers. The Board proposes to accept the representations of the applicant with regard to these six (6) employers. The representations of the applicant in this regard are as follows:

E-4 - W. Besterd Plumbing Heating Ltd.
is an employer for whom the respondent had bargaining rights and who has had employees in the year immediately preceding October 31, 1972. This employer had fifteen (15) employees affected by the application.

E-6 - Breen Mechanical and Electrical Contractors Limited
is an employer for whom the respondent had bargaining rights and who has had

employees in the year immediately preceding October 31, 1972. This employer had no employees affected by the application.

E-7 - Canadian International Comstock Limited

is an employer for whom the respondent had bargaining rights and who has had employees in the year immediately preceding October 31, 1972. This employer had seventeen (17) employees affected by the application.

E-16 - Jamieson Mechanical Limited

is an employer for whom the respondent had bargaining rights and who has had employees in the year immediately preceding October 31, 1972. This employer had one (1) employee affected by the application.

E-19 - Lassaline Heating Limited

is an employer for whom the respondent had bargaining rights and who has had employees in the year immediately preceding October 31, 1972. This employer had no employees affected by the application.

E-23 - Spar Mechanical Contractors Co. Limited

is an employer for whom the respondent had bargaining rights and who has had employees in the year immediately preceding October 31, 1972. This employer had no employees affected by the application.

With respect to two other employers, F-4 - ICs Ltee, and F-5 - OK Welding (Kitchener) Ltd., the applicant had no representations and accordingly the Board proposes to delete these employers from the list of employers in the unit of employers affected by the application.

9. The employer interventions filed by four (4) employers indicate that the respondent is not entitled to bargain on behalf of their employees. These employers are members of Pneumatic Control Systems Council and claim to have a collective agreement with the United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada rather than Local 593 hereof. The applicant agrees that these employers do not have a bargaining

relationship with the respondent in this case, and therefore should be deleted from the list of employers in the unit of employers. In accordance with the above consideration and on the basis of the materials filed with the Board, the Board has drawn up the following Final Schedule "E" and Final Schedule "F":

FINAL SCHEDULE "E":

W. Besterd Plumbing Heating Ltd.
Black & McDonald Limited
Blenkhorn and Sawle Limited
Breen Mechanical and Electrical
Contractors Limited
Canadian International Comstock Limited
C I M C O Limited
Dundas Plumbing and Mechanical Contractors Ltd.
Elgin Plumbing & Heating Ltd.
Etic Greenbeck Limited
Fletcher Clare Company Limited
Gimco Limited
Holek Vollmer Corporation Ltd.
Jamieson Mechanical Limited
King Mechanical Contractors Limited
Lassaline Heating Limited
Morris Plumbing & Heating (Stratford) Ltd.
W.L. Smith, Plumbing & Heating
Spar Mechanical Contractors Co. Limited
Steen Mechanical Contractors Limited
T.W. Thompson Limited
Woodcroft Mechanical Contractors Limited

FINAL SCHEDULE "F":

Adam Clarke Company Ltd.
Aldershot Industrial Installations Limited
Eggett & Co. Limited
Process Mechanical Contractors Ltd.
Sutherland-Schultz Limited

The Board finds that the twenty-one (21) employers on Final Schedule "E" were those employers who had employees in the year immediately preceding the making of the application and the number twenty-one (21) is the number of employers to be ascertained by the Board under section 115(1)(a) of the Act.

10. 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 nineteen (19) of the twenty-one (21) employers on Final Schedule "E". The nineteen (19) 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.

11. 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 October 31, 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 sixty-three (163) employees affected by the application during the payroll period immediately preceding October 31, 1972. The one hundred and sixty-three (163) employees is the number of employees to be ascertained by the Board under section 115(1)(c) of the Act.

12. The Board further finds that the nineteen (19) employers represented by the applicant employed one hundred and forty-seven (147) of these one hundred and sixty-three (163) 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.

13. 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 6, and in accordance with the provisions of section 115(2) of the Act for such other employers for whose employees the respondent may after October 31, 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