

ONTARIO LABOUR RELATIONS BOARD

Between:

Electrical Division of the Construction
Association of Thunder Bay,

Applicant,

- and -

Local Union No. 339, International
Brotherhood of Electrical Workers,

Respondent,

- and -

Electrical Power Systems Construction
Association,

Intervener.

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

APPEARANCES AT THE HEARING: J.H. Johnson for the
applicant; Herbert Fulton for the respondent; no one
appearing for the intervener; Robert J. Ball for
R.J. Ball Electric Ltd.; C.A. Johnson for C.A. Johnson
Electric Limited; Bertil A. Lindgren for B.A. Lindgren
Electric Limited; M. Price for Mahon Electric Company
Limited.

DECISION OF THE BOARD:

1. This is an application for accreditation.
The applicant and the respondent were parties to a
collective agreement dated April 28, 1970 which agreement
was in force at the time this application was made on
December 27, 1972. This agreement was succeeded by a
collective agreement dated May 16, 1973. This agreement
affects more than one employer in the geographic area
and sector which are the subject matters of this
application and the Board therefore finds that it has
the jurisdiction under section 113 of the Act to enter-
tain this application.

2. In support of its application the applicant
filed its constitution and bylaws and the letters patent
and supplementary letters patent of which the constitution
and bylaws were made. The original letters patent were
dated October 19, 1949, and the supplementary letters
patent changing the name of the Local Building Exchange

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to the Construction Association of Thunder Bay are dated June 26, 1970. By further supplementary letters patent dated November 6, 1972, the objects of the Association were altered to include the power to become an accredited employers' organization under The Labour Relations Act, and to represent employers in collective bargaining. The status of the applicant was not questioned by the respondent or any one appearing at the hearing and accordingly the Board finds that the applicant is an employers' organization within the meaning of section 106(d) of the Act, and further that it is a properly constituted organization for the purposes of section 115(3). In support of its application the applicant filed evidence of representation on behalf of 10 employers. The evidence of representation is in the form of a power of attorney appointing the Construction Association of Thunder Bay acting on behalf of the Electrical Division of that association as agent and representative for collective bargaining with the respondent union. The applicant also filed a duly completed Form 62, Declaration Concerning Representation Documents, in support of the evidence of representation submitted by it. The Board is satisfied that the evidence of representation meets the requirements set out in section 96 of the Board's Rules of Procedure. The Board is therefore satisfied that the individual employers on behalf of whom the applicant has submitted evidence of membership has vested appropriate authority in the applicant to enable it to discharge the responsibilities of an accredited bargaining agent.

3. The unit of employers requested by the applicant originally included the electric power systems sector. The request to include this sector in the appropriate unit of employers was subsequently withdrawn by the applicant with the result that the unit requested by the applicant is limited to the industrial, commercial and institutional sector and the residential sector of the construction industry. The geographic area requested by the applicant concerns the District of Kenora including the Patricia Portion, the District of Rainy River and the District of Thunder Bay. This geographic area is the geographic area in the recognition provisions of the collective agreements referred to in paragraph 1, although that area was only incorporated into the agreement in its last collective agreement. In light of the above the Board further finds that all employers of electricians and electricians' apprentices on whose behalf the respondent is entitled to bargain in the District of Kenora including the Patricia Portion, the District of Rainy River and the District of Thunder Bay, and in the industrial, commercial and institutional sector and the residential sector of the construction industry, constitute a unit of employers appropriate for collective bargaining.

4. Notice of this application in accordance with the Board's Rules of Procedure was sent to 20 employers. All but 3 employers made filings in Form 68. Since these employers were notified of the application and they refused to make the appropriate filings the Board proposes to accept the agreement of the parties concerning the disposition of these employers for the purposes of section 115 of the Act. Accordingly:

Masters Electric is an employer in the unit of employers who had 2 employees in the payroll period immediately preceding December 27, 1972.

D.R. McCormick Electric Ltd. is an employer in the unit of employers who had 17 employees in the payroll period immediately preceding December 27, 1972.

Thunder Bay Electric is an employer in the unit of employers who had 5 employees in the payroll period immediately preceding December 27, 1972.

5. As a result of the filings of certain employers and on the agreement of the applicant and the respondent the following employers have been removed from the list of employers in the unit of employers:

Fort William Electric
Service Electric
F.A. Tucker (Ontario) Ltd.

6. In accordance with the above consideration and on the basis of the filings of the two employers received by the Board, the Board finds that the following employers are employers in the unit of employers who had employees in the year immediately preceding the making of this application:

FINAL SCHEDULE "E"

Algoma Maintenance & Service Limited
Arrow Electric Co. Ltd.
R.J. Ball Electric Ltd.
Comstock International Ltd.
James Currie Electric Limited
Hallward Electric
C.A. Johnson Electric Limited
B.A. Lindgren Electric Limited
Mahon Electric Company Limited
Masters Electric
D.R. McCormick Electric Ltd.

Park Electric Service Company
Peterson Electric Co. Limited
Strachan-Aiken Electric Co. Ltd.
Thunder Bay Electric
Wildon Wiring

FINAL SCHEDULE "F"

Powertel Utilities Contractors Limited

The Board finds that 16 employers listed in Final Schedule "E" is the number of employers to be ascertained by the Board under section 115(1)(a) of the Act.

7. 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 9 of the 16 employers ascertained as the number of employers under section 115(1)(a) of the Act. The 9 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 a majority of the employers in the unit of employers are represented by the applicant.

8. The entitlement of an employers' organization to accreditation is based on a "double majority". We have 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 the matter of whether these employers employed a majority of the employees affected by the application. On the basis of the filings of the individual employers in Schedule "H" accompanying the employer filings in Form 68, the Board finds that in the weekly payroll period immediately preceding December 27, 1972, the employers found by the Board to be employers within the meaning of section 115(1)(a) of the Act employed a total of 159 employees. The Board is of the opinion that the weekly payroll period immediately preceding December 27, 1972, is a satisfactory payroll period for the purpose of making the determination required in section 115(1)(c). Accordingly, the Board finds that there were 159 employees affected by the application. The 159 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 9 employers represented by the applicant employed a total of 125 employees during that weekly payroll period. The Board is therefore satisfied that the majority of employers represented by the applicant employed a majority of 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 3 above and in accordance with the provisions of section 115(1)(2) of the Act for such other employers for whose employees the respondent may after December 27, 1972, obtain bargaining rights through certification or voluntary recognition in the geographic area and sectors set out in the unit of employers.

November 22, 1973

"D. E. Franks"
for the Board