

ONTARIO LABOUR RELATIONS BOARD

Between:

The London Sheet Metal Contractors Association,
Applicant,

- and -

The Sheet Metal Workers' International
Association, Local Union 473,

Respondent.

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

APPEARANCES AT THE HEARING: D.H. Stevens and H.T. Tallack
for the applicant; Wallace Gilbert Tovey for the respondent.

DECISION OF THE BOARD:

1. This is an application for accreditation. The applicant and the respondent are party to a collective agreement dated May 1, 1971, which agreement is in effect until April 30, 1973. The collective agreement affects more than one employer in the area and sector which are the subject matter of this application. The Board therefore has jurisdiction under section 113 of the Act to entertain this application.
2. The applicant is a Corporation without share capital under the name of The London Sheet Metal Contractors Association dated June 20, 1969. The objects of the Association were varied by Supplementary Letters Patent dated November 20, 1972. The Association has enacted By-law No. 1 dated June 20, 1969 and By-law No. 2 dated February 6, 1973. On the basis of the evidence before it 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(1)(3) of the Act.
3. The applicant filed with its application evidence of representation on behalf of 16 employers. The evidence of representation is in the form of an Employer Authorization which appoints the applicant to represent the signatory employer as bargaining agent in regard to the employees covered by the collective agreement with the respondent in the geographic area and the sectors which are the subject matter of the present application.

The applicant also filed in support of the 16 representation documents a duly completed Form 62, Declaration Concerning Representation Documents. The Board therefore further finds that the applicant has submitted acceptable documentary evidence of representation on behalf of 16 employers.

4. The collective agreement referred to in paragraph 1 defines as the geographic area of that agreement the six Counties of Oxford, Perth, Huron, Middlesex, Bruce and Elgin "save and except those areas within these Counties expressly excluded by International Office direction". The applicant has excluded from the appropriate geographic area requested in its application certain Townships in the Counties of Oxford and Perth. In a previous Board File No. 2377-72-R, this Board has accredited the Waterloo-Wellington Sheet Metal Contractors Association for an area including the County of Perth except the Townships of Blanchard, Downie, Fullerton, Hibert and Logan. At the hearing in this matter the respondent agreed that the collective agreement did not apply to these Townships in the County of Oxford which were excluded in the applicant's application. Having regard to the foregoing the Board finds that all employers of sheet metal workers and sheet metal workers' apprentices for whom the respondent has bargaining rights in the Judicial District of London and the Counties of Bruce, Elgin, Huron, Middlesex, Oxford (excepting therefrom the Townships of North Norwich, South Norwich, East Oxford, Blenheim, Blandford and East Zorro) and Perth, including the City of Stratford (excluding however, the Townships of South Easthope, North Easthope, Ellice, Mornington, Elma and Wallace,) in the industrial, commercial and institutional sector and the residential sector of the construction industry, constitute a unit of employers appropriate for collective bargaining.

5. Notice of this application was given to some 22 employers affected by the application. The applicant and the respondent agreed that 3 employers should be removed from the list of employers in the unit of employers since in this case the respondent did not have bargaining rights in the area and sector determined in the appropriate unit of employers. Accordingly, Employer No. 2 - W. Besterd Plumbing-Heating Ltd.; Employer No. 12 - Riverside Sheet Metal Ltd.; and Employer No. 15 - R. S. Trumper Sheet Metal & Roofing Limited have been removed from the list of employers in the unit of employers.

6. Of the remaining employers, 3 employers made no filing in Form 68 and in Schedule "H" as required by the Board's Rules of Procedure. In such circumstances the Board's practice has been to accept the agreement of the applicant and the respondent with respect to the employers who failed to comply in making the appropriate filings. Accordingly:

No. 6 - Holek-Vollmer Corporation Ltd.
is an employer for whom the respondent
has bargaining rights and during the
week immediately preceding March 7, 1973,
had seven employees.

No. 19 - S. Kicks Erectors is an employer for whom the respondent has bargaining rights, but who has not had employees in the year immediately preceding March 7, 1973.

No. 21 - London Erectors is an employer for whom the respondent has bargaining rights but who has not had employees in the year immediately preceding March 7, 1973.

With respect to the remaining employers the Board accepts the representations of the individual employers on their Form 68 filings. The Board has used the correct name of the individual as the name given by the employer on its filing in Form 68. 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"

Bannon Sheet Metal Limited
J.A. Brownlee Limited
Clayton Sheet Metal
Holek-Vollmer Corporation Ltd.
Lor-Don Limited
Maguire-Voyce Limited
Northern Roofing (1972) Limited
Parkway Sheet Metal Limited
Rexway Sheet Metal Limited
Robertson-Irwin Limited
R. L. Tinlin, Inc.
Williamson Roofing & Sheet Metal Limited
Westeel-Rosco Limited
Budd Steel Erectors
S. Kicks Erectors
Locker & Shelving Installations
London Erectors
White Erectors

FINAL SCHEDULE "F"

Canadian Asbestos Company

The Board finds that the 18 employers on Final Schedule "E" were those employers who had employees in the year immediately preceding the making of the application, and the number 18 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 13 of the 18 employers

on Final Schedule "E". The 13 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.

8. The Schedule "H" which accompanied the Form 68, employer filing, filed by the individual employers sets out the number of employees that the individual employer 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 March 7, 1973, 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 121 employees affected by the application during the payroll period immediately preceding March 7, 1973. The 121 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 13 employers represented by the applicant employed 117 of these 121 employees. The Board is therefore satisfied that the majority of the 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.

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, and in accordance with the provisions of section 115(2) of the Act for such other employers for whose employees the respondent may after March 7, 1973, obtain bargaining rights through certification or voluntary recognition in the geographic area and sectors set out in the unit of employers.

January 28, 1974

"D. E. Franks"
for the Board