
Labour Relations Primer

Applications for Certification and Collective Bargaining in the Construction Industry

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Date: April 24, 2009



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Agenda

- Applications for Certification
 - Legal overview
 - Practical considerations

- Collective Bargaining
 - “Plugged in” vs. actual bargaining

Certification in Construction Industry

- Certification process
- Bargaining units
- Define the employment relationship
 - No exceptions
- Time limits
- Strategic considerations

Certification in Construction Industry

- Why are contractors a target?
 - Uncertain contractual relationships
 - Long-term relationship
 - Employment opportunities
 - Subcontracting provisions

Certification in Construction Industry

■ *Labour Relations Act - section 8*

- 40%+ membership
- Vote

■ *Labour Relations Act - section 128.1*

- “*Card-based certification*”
- >55% membership
- Vote or Certified

Construction Unions and Sectors

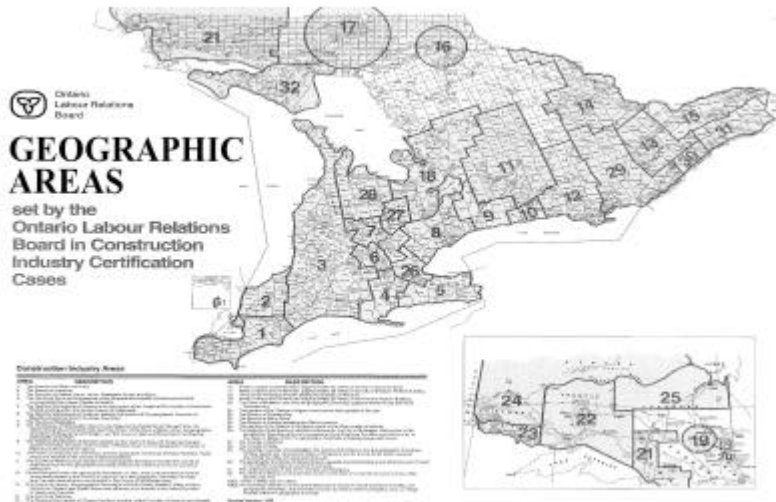
■ Unions

- Trade-based - Carpenters, Labourers, Electricians, Plumbers, etc.

■ Sectors

- Industrial, commercial and institutional sector (ICI)
- Residential sector
- Sewers and watermains sector
- Roads sector
- Heavy engineering sector
- Pipeline sector
- Electrical power systems sector

Board Areas



Certification in Construction Industry

- Trades-based units
 - “all carpenters and carpenters apprentices...
 - ...in the ICI sector in the Province of Ontario...
 - ...and all carpenters and carpenters apprentices...
 - ...in all other sectors in Board Area 8.”

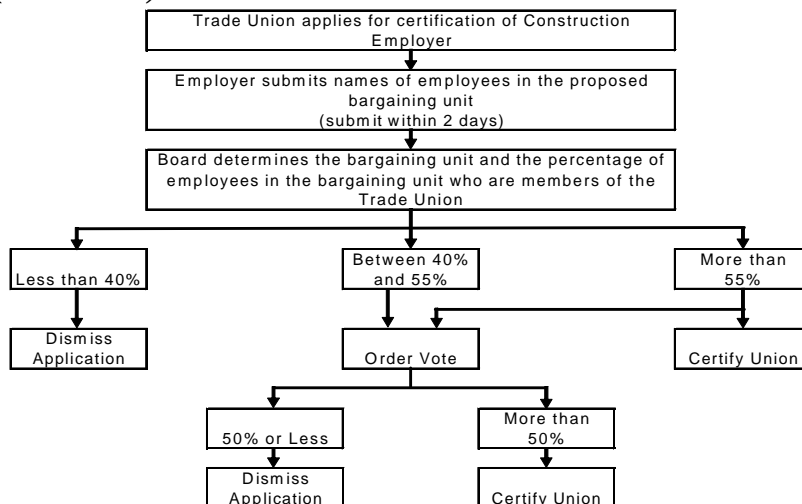
Certification in Construction Industry

■ Not “employment relationship”

- “at work...”
- “...performing bargaining unit work for the majority of time...”
- “...on the application date”

■ *Smiths Construction Co. Amprior Ltd.*, [1984] OLRB Rep. March 521

Certification in Construction Industry (s. 128.1)



Strategic Considerations

- Timelines
 - Response due within two (2) business days
 - Employee list cannot be amended
- Stale-dated cards
 - 6 months for card-based certification
 - 1 year for vote
- “Change of Heart”

Strategic Considerations

- Work on application filing date
- Application of collective agreements
 - EPSCA, labour requirements
- Employees vs. Subcontractors
 - Dependent vs. independent contractors
- Use of labour supply companies
 - Supervision of workers

Strategic Considerations

- “Salting”
- Review hiring practices
- Review terms of employment vs. collective agreements
- (Re)connect with employees

Bargaining in Construction Industry

- Standard Bargaining
 - “Industry Agreements”
- “*Plugged In*”
 - Accredited Employer Organizations
 - ICI Sector
- Residential Sector (GTA only)

Bargaining in Construction Industry

- Notice of Desire to Bargain
- Negotiations
- Request for the appointment of a conciliation officer
- Continued negotiations
- Request for a “No-Board” report
- Mediation
- Strike/Lockout

Bargaining in Construction Industry

- Accredited Employers’ Organization
 - Employers’ Organization
 - Over half of employers in bargaining relationship are members
 - Employ over half of employees
 - One collective agreement
 - Binds non-members
 - Cross-over clauses

Bargaining in Construction Industry

■ Industrial, Commercial and Institutional Sector

□ 1978 Designations

■ One Employer Bargaining Agency per trade

■ One Employee Bargaining Agency per trade

□ One collective agreement per trade

■ Provincial scope - local appendices

■ Current Agreement – May 1, 2007 to April 30, 2010

□ Project Agreements

Bargaining in Construction Industry

■ Residential Sector

□ Bill 69 Process (section 150.1 of Act)

■ Only for the GTA

■ Mandatory three year agreements

□ Expire April 30, 2010

■ Limited Strike/Lockout - May 1 to June 15

■ Interest Arbitration

Next Steps

- Review collective bargaining relationships
- Reconnect with employees
- Review subcontracting relationships
- Connect with employer organizations

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