



ONTARIO LABOUR RELATIONS BOARD

OLRB Case No.: **1144-14-R**

Labourers' International Union of North America, Local 183, Applicant v. **Normac Kitchens Limited**, Responding Party v. Group of Employees

BEFORE: Harry Freedman, Vice-Chair

DECISION OF THE BOARD: May 6, 2016

1. There were a number of issues that remained in dispute in this construction industry certification application being dealt with under section 128.1 of the *Labour Relations Act, 1995*, S.O. 1995, c.1, as amended (the "Act") following the Case Management Hearing on September 3, 2014, including not only the description of the bargaining unit but also several employee status disputes.

2. The Board in its subsequent decision dated February 13, 2015 determined the bargaining unit description. Following that decision, the parties adduced evidence in respect of the challenges to the list of bargaining unit employees over several days of hearing. Those hearings are scheduled to continue for several more days.

3. At the last day of hearing, the parties attending the hearing (the applicant and responding party) agreed to meet before the next scheduled day of hearing and attempt to resolve the outstanding status disputes. The Board has now been advised that the applicant and responding party met and with the assistance of a Labour Relations Officer, entered into written Minutes of Settlement pursuant to section 96(7) of the Act by which all the issues in dispute, and more particularly, all the outstanding status disputes have now been resolved.

4. The appropriate bargaining unit as determined by the Board in its February 13th decision is:

all construction labourers, carpenters and carpenters' apprentices in the employ of the responding party in the City of Toronto, the Regional Municipalities of Peel and York, the Towns of Oakville and Halton Hills and that portion of the Town of Milton within the geographic Townships of Esquesing and Trafalgar, and the Towns of Ajax and Pickering in the Regional Municipality of Durham, in all sectors of the construction industry other than the industrial, commercial and institutional sector, save and except non-working foremen and persons above the rank of non-working foreman.

The applicant and responding party in their Minutes of Settlement set out the bargaining unit description and agreed that the Board should direct a representation vote among all the employees who were employed by the responding party and at work in the bargaining unit on July 21, 2014, the date the application was filed. The parties requested that the Board direct the representation vote take place between 6:30 a.m. and 7:30 a.m. local time on Wednesday, May 25, 2016 at the Boardroom, 71 Glen Cameron Road, Thornhill.

5. The applicant and responding party also agreed upon the list of eligible voters who, based on their Minutes of Settlement, is a list of employees who were at work in the bargaining unit on the date the application was filed.

6. The Board has reviewed the information and membership evidence filed by the applicant with its application. The applicant filed membership evidence on behalf of 21 individuals, 10 of whom were on the list of 24 employees the parties agreed were in the bargaining unit and are eligible to vote.

7. Based on the information and membership evidence filed by the applicant and the agreed upon list of bargaining unit employees, the Board is satisfied that at least 40% but not more than 55% of the individuals in the bargaining unit were members of the applicant on the date the application was filed. Accordingly, pursuant to section 128.1(12) of the Act and on agreement of the parties, the Board directs that a representation vote be taken.

8. All the individuals on the agreed upon voters' list (the employees who were employed by Normac Kitchens Limited and at work in the bargaining unit on July 21, 2014) are eligible to vote.

9. The vote will be held on May 25, 2016. Final vote arrangements will be set out in the "Notice of Vote" to be provided to the parties by the Vote Coordinator prior to the vote.

10. Voters will be asked to indicate whether or not they wish to be represented by the applicant in their employment relations with the responding party.

11. Any party or person who wishes to make representations to the Board about any issue relating to the conduct of the representation vote or any other issue arising in this matter on or after May 5, 2016 must file a detailed statement of representations and all material facts upon which they rely with the Board and deliver it to the other parties, so that it is received within five days (excluding Saturdays, Sundays and holidays on which the Board is closed) of the date on which the vote is taken.

12. In order to facilitate the necessary communications with the individuals who are eligible to vote, the responding party has agreed to provide a letter to the eligible voters containing the information to which the parties had agreed in their Minutes of Settlement. The responding party, in addition to posting the requisite Notice of Vote issued by the Board at its premises, also agrees to send that Board notice to those eligible voters.

13. On agreement of the applicant and responding party, the Board directs the responding party to provide not later than 5:00 p.m. local time, Monday, May 9, 2016 to counsel for the applicant the last known address that the responding party has in its records for each of the individuals who are eligible to vote in the representation vote.

14. The Board directs the applicant, upon its receipt of the documents containing that information from its counsel, to keep that information confidential and to comply with the following conditions:

- a) No copies of the documents or information are to be made except for purposes related to this application;

- b) Those documents and information must not be shown, shared or provided to any person except for use by the applicant with respect to preparing for and conducting the representation vote or except as required by law;
- c) The documents and information can be used by the applicant for purposes of this application only and must not be used or disclosed for any other or improper purpose, except as required by law; and
- d) The documents the applicant received from the responding party pursuant to this order (and all copies that had been made of those documents and information) must be destroyed not later than 8 p.m. on the date the representation vote takes place.

15. The Board directs the responding party to post copies of this decision and the "Notice of Vote" (which as noted above will be provided to the parties by the Vote Coordinator prior to the vote) in a location or locations where they are most likely to come to the attention of those individuals who are eligible to vote.

16. In view of the settlement reached between the applicant and responding party with respect to the outstanding status disputes, the hearings scheduled for June 13 and 20, 2016 are hereby cancelled.

17. This matter is referred to the Registrar.

"Harry Freedman"
for the Board