



## ONTARIO LABOUR RELATIONS BOARD

OLRB Case No: **0748-24-R**

**Eastern Ontario Paint and Coatings Contractors' Association,**  
Applicant v Operative Plasterers' and Cement Masons' International  
Association of the United States and Canada, Local 124, Responding  
Party

**BEFORE:** Danna Morrison, Vice-Chair

**DECISION OF THE BOARD:** September 26, 2024

1. This is an application for accreditation made pursuant to section 134 of the *Labour Relations Act, 1995*, S.O. 1995, c.1, as amended (the "Act") in which the applicant seeks to be accredited as the bargaining agent of employers of all painters and painters' apprentices for whom the responding party holds bargaining rights in the residential sector of the construction industry in the County of Lanark, the geographic Townships of South Crosby, Bastard, Kitley, Wolford, Oxford (on Rideau) and South Gower and all lands north thereof in the United Counties of Leeds and Grenville, the County of Renfrew, and the City of Ottawa and the United Counties of Prescott and Russell (OLRB Board Area Nos. 13, 14 and 15).

2. The Board finds that the applicant is an employers' organization within the meaning of sections 1(1) and 126 of the Act and that it meets the requirements to be accredited as a properly constituted employers' organization under subsection 136(3) of the Act. The Board further finds that the responding party is a trade union within the meaning of sections 1(1) and 126 of the Act.

3. Section 135 of the Act requires the Board, upon an application for accreditation, to determine "the unit of employers that is appropriate for collective bargaining in a particular geographic area and sector...". Section 135 also provides that the Board, in making that determination, "need not confine the unit to one geographic area or sector but may, if

it considers it advisable, combine areas or sectors or both or parts thereof.”

4. In a decision dated July 18, 2024, the Board directed the applicant to provide notice of this application to all of the employers the responding party had listed on Schedule “E” to its response and to any other employer the applicant believed may be affected by this application. The Board did not require the responding party to file a Schedule “F” as neither the Act nor the Board’s Rules of Procedure any longer require the service and filing of a Schedule “F” in an accreditation application. In addition, the parties further agreed that the notice, along with a copy of the application, response, and all Board decisions, would be made accessible on the Board’s website. The Board further directed the applicant to have published a copy of the notice in two publications utilized by the construction industry contractors that service the affected geographic areas and to send a copy of the Board’s July 18, 2024 decision, together with a blank “Employer Filing, Application for Accreditation: List of Employes” (Form A-94) to each of the employers on the List of Employers filed by the applicant and the responding party.

5. By way of correspondence dated August 15, 2024, the applicant confirmed that it had placed the notice and delivered the requisite documents to the employers on the List of Employers, as directed by the Board.

6. Having regard to the foregoing, the Board is satisfied that the applicant has met its obligation to provide reasonable notice to any person or employer that may be affected by this proceeding.

7. In its July 18, 2024 decision, the Board set an Employer Filing Date of August 30, 2024, by which time any affected employer wishing to participate in the application was required to serve and file specified materials, including an “Employer Filing, Application for Accreditation, Construction Industry” (Form A-94) along with the required Schedule “A” to the Form A-94. The Board received no Employer Filings by the Employer Filing Date. However, the Board did receive Employer Filings plus the required Schedule “A” to the Form A-94 from three employers each dated September 17, 2024. No employer objected to the application. All employers indicated that the applicant was entitled to bargain on their behalf. Taking into consideration that all three employers who filed an Employer Filing supported the application, the Board considers it appropriate to extend the Employer Filing Date to accept the Employer Filings.

8. In these circumstances, including the reasons set out below, the Board is satisfied that it can make a final determination of this matter without a hearing based on the materials filed with the Board.

9. An employers' organization may seek accreditation as a bargaining agent of employers in the construction industry under section 134 of the Act only if a trade union or council of trade unions within the meaning of section 126(1) of the Act holds bargaining rights, whether by certification or voluntary recognition, in respect of a bargaining unit of employees working in the construction industry employed by more than one employer operating a business in the construction industry and that union or council of unions entered into collective agreements with more than one such employer applicable to a bargaining unit of such employees. Section 134 of the Act provides:

134. Where a trade union or council of trade unions has been certified or has been granted voluntary recognition under section 18 as the bargaining agent for a unit of employees of more than one employer in the construction industry or where a trade union or council of trade unions has entered into collective agreements with more than one employer covering a unit of employees in the construction industry, an employers' organization may apply to the Board to be accredited as the bargaining agent for all employers in a particular sector of the industry and in the geographic area described in the said certificates, voluntary recognition documents or collective agreements, as the case may be.

10. In order to obtain accreditation, the applicant must establish that it meets the conditions prescribed by section 136(3) of the Act, and also satisfy the Board that it represents a majority of the employers in the unit of employers the Board has determined is appropriate for collective bargaining and that those employers it represents employed a majority of the employees who were on the payrolls of the employers in the bargaining unit during the week immediately preceding the application date (or such other payroll week as established by the Board).

11. Section 136(3) of the Act provides:

136.(3) Before accrediting an employers' organization under subsection (2), the Board shall satisfy itself that the employers' organization is a properly constituted organization and that each of the employers whom it

represents has vested appropriate authority in the organization to enable it to discharge the responsibilities of an accredited bargaining agent.

12. The "double majority" requirement the applicant must satisfy to obtain accreditation is set out in sections 136(1) and 136(2) of the Act as follows:

136. (1) Upon an application for accreditation, the Board shall ascertain,

- (a) the number of employers in the unit of employers on the date of the making of the application who have within one year prior to such date had employees in their employ for whom the trade union or council of trade unions has bargaining rights in the geographic area and sector determined by the Board to be appropriate;
- (b) the number of employers in clause (a) represented by the employers' organization on the date of the making of the application; and
- (c) the number of employees of employers in clause (a) on the payroll of each such employer for the weekly payroll period immediately preceding the date of the application or if, in the opinion of the Board, the payroll period is unsatisfactory for any one or more of the employers in clause (a), such other weekly payroll period for any one or more of the said employers as the Board considers advisable.

(2) If the Board is satisfied,

- (a) that a majority of the employers in clause 1(a) is represented by the employers' organization; and
- (b) that such majority of employers employed a majority of the employees in clause 1(c),

the Board, subject to subsection (3), shall accredit the employers' organization as the bargaining agent of the employers in the unit of employers and for the other employers for whose employees the trade union or council of trade unions may, after the date of the making of the application, obtain bargaining rights through certification or

voluntary recognition in the appropriate geographic area and sector.

13. No party has raised an objection to the proposed bargaining unit described in the Board's decision dated July 18, 2024. Having regard to section 135 of the Act and the agreement of the parties, the Board determines the following unit of employers to be appropriate for collective bargaining:

all employers of all painters and painters' apprentices for whom the responding party holds bargaining rights in the residential sector of the construction industry in the County of Lanark, the geographic Townships of South Crosby, Bastard, Kitley, Wolford, Oxford (on Rideau) and South Gower and all lands north thereof in the United Counties of Leeds and Grenville, the County of Renfrew, and the City of Ottawa and the United Counties of Prescott and Russell.

14. The Board finds that the documentary evidence filed by the applicant in accordance with the Board's Rules of Procedure is sufficient to prove that each of the three employers it represents has authorized it to act as their bargaining agent in collective bargaining with the responding party.

15. Based on the parties' representations and the materials filed with the Board, the Board is satisfied that the final Schedule "E" is comprised of the following three employers:

**Schedule "E"**

Desjardins Painting Inc.

2329055 Ontario Inc. o/a Durapro Coatings

We Paint 4 You Inc.

16. The applicant filed documentary evidence establishing that it represents all three of the employers listed on the Schedule "E". The Board therefore finds that the applicant represented a majority of the employers in the bargaining unit of employers that had employees for whom the responding party held bargaining rights performing work coming within the scope of the bargaining unit within one year prior to the application date. The applicant has, therefore, satisfied the condition

set out in section 136(2)(a) of the Act as the first prerequisite for obtaining accreditation.

17. All three of the employers filed an Employer Filing (Form A-94) indicating that they had employees on their payroll for the weekly pay period immediately preceding the date of application performing work within the geographic scope of the bargaining unit. The total number of employees indicated in the three Employer Filings as having performed work within the geographic scope of this application is 56. All three of the employers who had employees on their payroll for the weekly pay period immediately prior to the date of application are represented by the applicant. The employers represented by the applicant employed 56 of 56 employees at work for Schedule "E" employers in the relevant time period. There is no information before the Board to indicate that any other affected employer employed any other affected employees in the relevant period. Hence, the majority of employers employed the majority of employees contemplated by section 136(1)(c) of the Act at the relevant time. Having regard to this information, the Board is satisfied that the applicant has satisfied the condition set out in section 136(2)(b) of the Act as the second prerequisite for obtaining accreditation.

18. In the result, the Board finds that the applicant has established the "double majority" requirement prescribed in section 136(2) of the Act to entitle it to be accredited as the exclusive bargaining agent of the employers coming within the bargaining unit described in paragraph 13, above. That is, the applicant has established that it represents a majority of the employers in the bargaining unit of employers and that those employers employed a majority of the employees who were on the payrolls of the employers in the bargaining unit during the week immediately preceding the application date.

19. Pursuant to section 136(2) of the Act, the Board hereby accredits the applicant as the exclusive bargaining agent of employers in the unit of employers set out in paragraph 13 above and for all other employers for which the responding party held bargaining rights as of the date of application and for all other employers whose employees the responding party may, after June 25, 2024, the date this application was made, obtain bargaining rights through certification or voluntary recognition in the following bargaining unit:

all employers of all painters and painters' apprentices  
for whom the responding party holds bargaining rights

in the residential sector of the construction industry in the County of Lanark, the geographic Townships of South Crosby, Bastard, Kitley, Wolford, Oxford (on Rideau) and South Gower and all lands north thereof in the United Counties of Leeds and Grenville, the County of Renfrew, and the City of Ottawa and the United Counties of Prescott and Russell.

20. As there is no longer any requirement to compile a Schedule "F" in this application, the Board wishes to stipulate that the issuance of the accreditation certificate herein does not prejudice or adversely affect, in any way, the responding party's bargaining rights with respect to employers who were not listed on the Schedule "E", for whatever reason.

21. A certificate of accreditation shall issue.

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"Danna Morrison"  
for the Board