Card-Based Certification And Unionization In The Construction Industry



The Ontario Labour Relations Board's recent decision in *Carpenters', United Brotherhood of Carpenters and Joiners of America v Regional Municipality of Waterloo* demonstrates the unique nature of union certification in the construction industry. The case shows how two individuals who were asked to work on a Saturday, building a small utility shed on municipal property, were successful in certifying the Carpenters' union as the bargaining agent for all carpentry work done by the Region of Waterloo.

Unlike the organizing campaigns and votes most employers are familiar with, construction unions are provided with the additional option of bringing what is known as a "card-based" application. A union will become automatically certified if the membership evidence filed in support of the application for certification demonstrates that the union has signed up 55% or more of the bargaining unit employees who were at work *on the date of application*. Card based automatic certification will apply even where 55% of the employees at work constitute a minority percentage of the employers' actual total workforce. This means that two employees can certify the entire workforce of a Regional Municipality. For strategic reasons, these applications are often brought by unions on a Saturday, when fewer employees may be working.

The consequences of union certification in the construction industry can be particularly challenging: accredited bargaining agents and Employer Associations are designated by statute to negotiate collective agreements in respect of particular trades (i.e. carpenters, operating engineers, electricians, etc.) in particular sectors. An employer may even find itself automatically subject to a province-wide collective agreement (such as in the Industrial-Commercial-Institutional sector).

Construction employers should be sure to learn and understand the rules regarding union certification in their industry.

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