



ONTARIO LABOUR RELATIONS BOARD

Colleges Collective Bargaining Act, 2008

OLRB Case No: 0625-16-R
Certification (Industrial)

Ontario Public Service Employees Union ("OPSEU"), Applicant v College
Employer Council, Responding Party

COVER LETTER

TO THE PARTIES LISTED ON APPENDIX A:

The Board is attaching the following document(s):

Decision - December 15, 2017

DATED: December 15, 2017

Catherine Gilbert
Registrar

Website: www.olrb.gov.on.ca

Address all communication to:

The Registrar
Ontario Labour Relations Board
505 University Avenue, 2nd Floor
Toronto, Ontario M5G 2P1
Tel: 416-326-7500
Toll-free: 1-877-339-3335
Fax: 416-326-7531



ONTARIO LABOUR RELATIONS BOARD

THIS IS AN OFFICIAL NOTICE OF THE BOARD

OFFICIAL NOTICES OF THE BOARD MUST NOT BE REMOVED, DEFACED
OR DESTROYED

ALL NOTICES MUST IMMEDIATELY BE POSTED BY THE EMPLOYER (IN
LOCATIONS WHERE THEY ARE MOST LIKELY TO COME TO THE
ATTENTION OF EMPLOYEES OR OTHER INDIVIDUALS AFFECTED BY THE
APPLICATION) NEXT TO THE APPLICATION, THE BOARD'S NOTICE TO
EMPLOYEES OF APPLICATION, AND/OR THE BOARD'S DECISION

NOTICES MUST REMAIN POSTED FOR 45 BUSINESS DAYS



COMMISSION DES RELATIONS DE TRAVAIL DE
L'ONTARIO

Loi de 2008 sur la négociation collective dans les collèges

N° de cas de la CRTO : 0625-16-R
Accréditation syndicale (secteur industriel)

Syndicat des employés de la fonction publique de l'Ontario (« SEFPO »),
requérant c Conseil des employeurs des collèges, intimé

LETTRE D'ACCOMPAGNEMENT

À L'ATTENTION DES PARTIES INDIQUÉES À L'ANNEXE A :

La Commission joint à la présente le ou les documents suivants :

Decision - December 15, 2017

FAIT LE : 15 décembre 2017

Catherine Gilbert
Greffière

site Web : www.olrb.gov.on.ca

Toutes les communications
doivent être adressées à :

La greffière
Commission des relations de travail de
l'Ontario
505, avenue University
2^e étage
Toronto (Ontario) M5G 2P1
Téléphone : 416-326-7500
Sans frais : 1-877-339-3335
Télécopieur : 416-326-7531



COMMISSION DES RELATIONS DE TRAVAIL DE
L'ONTARIO

CET AVIS OFFICIEL DE LA COMMISSION
NE DOIT PAS **ÊTRE ENLEVÉ**, **ALTÉRÉ** OU **DÉTRUIT**

L'EMPLOYEUR DOIT AFFICHER IMMÉDIATEMENT CETTE DÉCISION (AUX
ENDROITS **OU** ELLE EST LE PLUS SUSCEPTIBLE D'ATTIRER L'ATTENTION
DES EMPLOYÉS ET AUTRES PERSONNES TOUCHÉES PAR LA REQUÊTE), **À**
CÔTÉ DE LA REQUÊTE, DE L'AVIS DU **DÉPÔT** DE LA REQUÊTE **DONNÉ** PAR
LA COMMISSION AUX EMPLOYÉS ET/OU DE TOUTES LES AUTRES
DÉCISIONS DE LA COMMISSION.

LE **PRÉSENT** AVIS DOIT RESTER AFFICHÉ PENDANT 45 JOURS
OUVRABLES.



ONTARIO LABOUR RELATIONS BOARD

OLRB Case No: **0625-16-R**

Ontario Public Service Employees Union ("OPSEU"), Applicant v **College Employer Council**, Responding Party

BEFORE: Brian McLean, Vice-Chair

DECISION OF THE BOARD: December 15, 2017

1. This is an application for certification under the *Colleges Collective Bargaining Act, 2008*, S.O. 1990, c.5 ("the CCBA").
2. The Board described some of the background to this matter in its September 14, 2017 decision:
 3. ... The application was filed some time ago and a representation vote was held shortly thereafter. The ballot box was sealed (and the ballots not counted) following the representation vote because the Council gave notice under section 31(1) of the CCBA that it disagreed with the applicant's estimate of the number of employees in the part-time staff bargaining unit which is the subject of this application. The point of such notice is to challenge whether the union has the support of 35% or more employees in the bargaining unit which is the subject of the application for certification.
 4. Since the vote, the Board has, among other things, been engaged in a process of determining whether the applicant had the support of 35% or more of employees in the bargaining unit at the time it applied (in which case the ballots from the vote can be counted) or whether it did not (in which case the application will be dismissed). The process being undertaken by the Board is described in earlier decisions in this matter. It is important to note that the Council objects to the Board's process and its ongoing participation in it is without prejudice to its objection.

5. Since the September 14, 2017 decision, the Board has continued to engage in the process of determining whether the union has the required level of support to have the ballots counted or whether its application will be dismissed. The union has sought to add individuals to the Council's list of individuals it asserts are in the bargaining unit and at the same time ask the Board to determine some of its challenges to that list. The union challenged a group of employees and the matter went for a hearing in front of a different Vice-Chair of the Board.

6. Following that hearing, by way of decision dated October 10, 2017, the Board (differently constituted) noted the Council's agreement with the union that a number of persons should be removed from the Council's list of persons who it asserts are in the bargaining unit (many of whom are challenged by the union). In light of the Council's agreement regarding the status of those persons, the union asked the Board to determine whether the union had the support of 35% or more of employees in the bargaining unit. Subsequently, on December 12, 2017, the Union withdrew its request that certain other persons be added to the list.

7. The Board has very carefully compared the membership cards filed by the applicant union against the current list of individuals which the Council asserts are in the bargaining unit and any possible list which might include all or some of the individuals the Union seeks to add. It is clear, and the Board is satisfied, that the applicant has the support of 35% or more employees in the bargaining unit. Accordingly, the ballots cast in the representation vote held in this matter can be counted (see section 31(5)(6)(i) of the CCBA).

8. Under the circumstances, the Board finds it appropriate to describe in more detail than it usually does in similar circumstances the various calculations it used to make its determination. Based on the Council's numbers, there are a maximum of 8783 employees in the bargaining unit. The Union has provided valid membership evidence which is signed and dated by 3076 of such employees (35.02%). The number of membership cards signed and dated includes cards found to be valid in the Board's various decisions in the matter, but does not include any cards where the Board, in a decision, directed a labour relations officer to inquire about cards. I note, however, that a labour relations officer did inquire about certain disputes as set out in decisions and reported back that three of the disputed cards were signed by a person on the Council's list of employees.

9. Having established that the Union had the support of 35% or more of employees based on the Council's list, I was next left to consider the Union's additions to the list. It was possible that, if some or all of the individuals the Union sought to add to the list were found to be employees in the bargaining unit, and some of these individuals did not sign cards (or the cards they did sign were invalid) the Union might not have the required 35% support. Again, the Board carefully reviewed the membership evidence filed (including whether the cards were properly signed and dated) and determined that regardless of which (if any) of the Union's proposed additions to the employee list were accepted, the Union has the support of 35% or more employees in the bargaining unit. Accordingly, as noted, the Board has therefore determined that the Union has the support of 35% or more employees in the bargaining unit regardless of what the exact number of employees in the bargaining unit is.

10. This matter is referred to the Manager of Field Services who can make arrangements to count the ballots.

"Brian McLean"
for the Board

APPENDIX A / ANNEXE A

Ryder Wright Blair & Holmes LLP
333 Adelaide Street W
3rd Floor
Toronto ON M5V 1R5
Attention: Richard Blair
Tel: 416-340-9070 Ext 223
Fax: 416-340-9250
Email: rblair@rwbh.ca; rgissonni@rwbh.ca

Ryder Wright Blair & Holmes LLP
333 Adelaide Street W
3rd Floor
Toronto ON M5V 1R5
Attention: David Wright
Counsel
Tel: 416-340-9070 Ext 237
Fax: 416-340-9250
Email: dwright@rwbh.ca; loshea@rwbh.ca

Ontario Public Service Employees Union
2550 Victoria Park Avenue
Suite 400
Toronto ON M2J 5A9
Attention: Connie Huziak
Organizing Representative
Tel: 416-443-8888
Cell: 416-788-9245
Fax: 905-712-2916
Email: chuziak@opseu.org

Hicks Morley Hamilton Stewart Storie LLP
77 King Street W
Floor 39
P.O. Box 371
Toronto ON M5K 1K8
Attention: Wallace M. Kenny
Tel: 416-864-7306; 416-362-1011
Fax: 416-362-9680
Email: wallace-kenny@hicksmorley.com; debbie-morgan@hicksmorley.com

College Employer Council
20 Bay Street
Suite 1600
Toronto ON M5J 2N8
Attention: Erin Holl
Director, Support Staff
Tel: 647-258-7704
Cell: 416-895-0828
Fax: 647-258-7719
Email: erin.holl@theCouncil.ca; cathy.viviano@thecouncil.ca

College Employer Council
20 Bay Street
Suite 1600
Toronto ON M5J 2N8
Attention: Don Sinclair
Executive Director
Tel: 647-258-7701
Fax: 647-258-7719
Email: don.sinclair@thecouncil.ca