



## ONTARIO LABOUR RELATIONS BOARD

OLRB Case No: **2984-24-R**

Carpenters' Regional Council, United Brotherhood of Carpenters and Joiners of America, Applicant v **Wealthridge Construction Ltd.**, V&M Renovations Inc., and Timberline Mining Services Inc., Responding Parties

**BEFORE:** Neil Keating, Vice-Chair

**DECISION OF THE BOARD:** May 1, 2026

1. This is an application for certification filed with the Board pursuant to section 128.1 of the *Labour Relations Act, 1995*, S.O. 1995, c.1, as amended ("the Act").
2. In this application the Carpenters' Regional Council, United Brotherhood of Carpenters and Joiners of America (the "Carpenters") have applied to represent their usual craft bargaining unit on a province wide basis in the ICI sector, as well in all other sectors in Board Area 19.
3. By way of preliminary motion, the Carpenters submit that the two outstanding status disputes can be determined without a hearing.
4. First, the Carpenters argue that the Board should hold the responding parties to the contents of the Schedule "A" filed with their initial timely response. That Schedule "A" listed three individuals, including Steven Hache ("Hache") and Marius Migan ("Migan") (together the "Individuals in Dispute"), as employees in the bargaining unit on the application filing date.

5. The Carpenters submit that the responding parties' subsequent attempts to change that position, after the filing of their response, should not be accepted by the Board. On this basis, the Carpenters say that the "Individuals in Dispute" should be included on the employee list, without the need for a hearing to determine their status.

6. Further, the Carpenters submit the responding parties failed to plead sufficient facts as directed by the Board (differently constituted) in its initial decision of March 20, 2025 (the "Initial Decision") and articulated in Information Bulletin No. 9 as well as the Board's case law, to warrant a hearing into the status of the Individuals in Dispute. Regarding Hache, it is not disputed that he performed work that falls within the scope of the bargaining unit on the application filing date, rather the dispute is limited to whether he was an independent contractor (as asserted by the responding parties) or an employee of the responding parties, within the meaning of the Act, as the Carpenters argue.

7. The Board held a Case Management Hearing ("CMH") in this matter, at which time it heard argument on these issues. Having considered those submissions, the authorities provided as well as the material on file, for the reasons that follow, I agree with the Carpenters that the responding parties' pleadings do not meet the Board's well-established standard. The status of the Individuals in Dispute can be determined on the material before the Board, and they will be included on the employee list in this matter.

### **Change of Position/Late Filed Responding Materials**

8. I am satisfied that it is appropriate to accept and consider all of the responding parties' filings. While their materials contain inconsistencies, the responding parties' position that there were no employees in the bargaining unit was signalled in their timely response.

9. Although the initial Schedule "A" listed three individuals, the responding parties indicated on the face of the response form that there were no employees in the bargaining unit.

10. In the circumstances, I am not persuaded that any material prejudice to the Carpenters arises from accepting the subsequent materials, which clarify that position. This is particularly so given the result that follows.

## **Ancillary Issues**

11. As part of their response and subsequent submissions, the responding parties raised various allegations addressing the conduct and motivations of the Carpenters. Further, at the CHM, the Carpenters took issue with the responding parties' use of artificial intelligence in the preparation of their submissions; I will address those issues, briefly.

12. The responding parties' submissions are replete with allegations concerning what it says are improper motivations on the part of the Carpenters as well as objectionable conduct by representatives of the Carpenters during their organizing campaign. At the CMH Maxime Veilleux ("Veilleux") appeared for the responding parties and conceded that that these allegations do not affect the reliability of the membership evidence filed by the Carpenters in support of this application. Otherwise, the responding parties have not alleged any specific breach of the Act on the part of the Carpenters, nor has an unfair labour practice complaint been filed. These allegations are therefore irrelevant to the issues before the Board and do not warrant further consideration.

13. Veilleux also conceded that he relied upon the assistance of artificial intelligence software in the preparation of his submissions. The Carpenters noted, and it was not disputed, that the responding parties' submissions included "hallucinated" cases; the large language model artificial intelligence used by the responding parties in preparing its submissions provided references to, at least, one case that does not exist. The Carpenters asked the Board to comment on the use of artificial intelligence in this case and more generally in matters before the Board. On that issue the Board will simply point to Rule 8.5 of the Board's Rules of Procedure that was introduced on August 29, 2025. The community notice that accompanied the introduction of Rule 8.5 specifically referenced the issue of "hallucinated" cases generated by artificial intelligence software; that Rule is designed to, among other things, guard against the mischief caused by hallucinated cases by requiring parties that provide case citations to include an electronic link to the case cited, or if no link exists, a paper copy of the case.

## **Did The Pleadings Meet the Required Standard?**

### *Positions of the Parties*

#### *The Union*

14. The Carpenters submit that the responding parties have failed to plead sufficient material facts to establish a *prima facie* case in support of their position regarding the Individuals in Dispute. In the circumstances, the Carpenters assert that the Board should determine the status of the Individuals in Dispute without a hearing pursuant to Rules 39.1 and/or 41.3 of the Board's Rules of Procedure.

15. Generally, the Carpenters submit that many of the responding parties' assertions are vague, conclusory, or unsupported by facts.

16. With respect to Migan, the Carpenters assert that the responding parties' focus on him being a student or part time worker is misplaced and is not responsive to the relevant inquiry, that being the date of application test used by the Board in construction industry applications for certification. The pleadings themselves, according to the Carpenters, do not disclose a start or end time for the work he is said to have performed on the application filing date. Instead, the responding parties have provided a range of dates that Migan worked. Additionally, although certain tasks are described, the Carpenters assert that the responding parties failed to meet the standard of pleading by omitting the times (when and for how long) those tasks were performed on the application filing date. Further, the Carpenters say that the use of conclusory type statements like "basic labour support" are of no assistance to the responding parties due to the lack of any factual underpinning.

17. The Carpenters urged the Board to reject the vague status submissions of the responding parties that lack sufficient detail, as it has done in many previous cases. In that regard the Carpenters commended the Board to paragraph 43 of the decision in *ASL Agrodrain Limited*, 2019 CanLII 11103 (ON LRB), which provides:

43. With all of the above in mind, I do not consider it unreasonable for the Board to expect an employer such as the responding party to plead its status submissions in considerable detail. If the Board were to permit an employer to file vague status submissions in support of its position, and then litigate those status disputes, one consequence of

doing so is the likelihood – perhaps the certainty – that employers will plead bald legal conclusions in support of their positions when they have no persuasive material facts to fall back upon for the purpose of extending the time before a certificate may issue by the Board. To encourage behaviour of that nature is also inconsistent with the intent of the Act. Section 2 of the Act identifies the expeditious resolution of workplace disputes as one of the purposes of the Act.

18. As for Hache, the Carpenters submits that the responding parties pleadings and supporting documents are insufficient to require a hearing to determine his status; counsel for the Carpenters described the responding parties' pleadings related to Hache as "boilerplate". In particular, the Carpenters argue that the responding parties have failed to plead the material facts required by the Board's jurisprudence such that it can be determined that he is an employee of the responding parties. At best, the Carpenters assert that the submissions and documents filed by responding parties' are reflective of Hache acting as a labour only dependent contractor.

19. Specifically, the Carpenters assert that the responding parties' assertion that Hache worked as an independent contractor for multiple clients is unsupported by facts that would lend it an air of credibility. For example, the Carpenters state that the responding parties has not identified what other clients Hache worked for, on which other projects or for how long or how often he purportedly worked for these other clients. Otherwise, the Carpenters say that vague reference to use of tools absent detail regarding which tools, does not provide a basis to require a hearing on the status of Hache.

20. The Carpenters submit that the responding parties' pleadings regarding Hache are also lacking key information that would be expected if Hache was indeed operating as an independent contractor. The pleadings do not describe a formal business structure illustrating that Hache had a chance to profit or risk of loss. The responding parties' submissions do not indicate that Hache had any helpers or other employees and importantly they are silent regarding on site supervision.

21. On the other hand, the Union asserts that it has clearly pled that Hache worked exclusively or near exclusively for the responding parties, he has no independent business structure and performs work under the direction of the responding parties' representatives.

The Responding Parties

22. Veilleux submitted that Migan did not perform the work of a carpenter, stating “he didn’t put up a house”. Veilleux also attempted to introduce additional facts at the CMH, including that Migan was not working on the application filing date; the Board refused to allow Veilleux to supplement the factual record at the CMH. Veilleux stated that the Migan worked only limited hours (27 hours in the two week period for which records were filed), which is indicative of him not being an employee of the responding parties.

23. With respect to Hache, the responding parties say that the full particulars related to his business (i.e. client lists) is simply not within their knowledge. The responding parties conceded that Hache did not have a corporation or formal legal structure that would be markers of an independent contractor. Notwithstanding the lack of formal structure the responding parties maintain Hache being listed in their Wave software system as a “T4A Contractor” as well as the absence of payroll deductions are sufficient facts that have been pled to establish that Hache acted as an independent contractor vis-à-vis the work he performed for the responding parties.

**Analysis and Decision**

24. Rules 39.1 and 41.3 of the Board’s Rules of Procedure provide as follows:

**39.1** Where the Board considers that an application does not make out a case for the orders or remedies requested, even if all of the facts stated in the application are assumed to be true, the Board may dismiss the application without a hearing or consultation. In its decision, the Board will set out its reasons.

**41.3** Where the Board is satisfied that a case can be decided on the basis of the material before it, and having regard to the need for expedition in labour relations matters, the Board may decide an application by limiting the parties’ opportunities to present their evidence or to make their submissions, or without a hearing.

25. Regarding the standard of pleading, Information Bulletin No. 9 was amended in September 2021 to include, as an example of the basic facts which must be pleaded, the length of time the individuals performed each task.

26. The Board's well-established pleading standard requires a responding party to set out material facts identifying what work was performed on the application filing date, where it was performed, and how long each task was performed, such that, if proven, the Board could conclude that the individual performed bargaining unit work for a majority of the working day (see the discussion at paragraphs 28-31 of *ASL Agrodrain Limited, supra*).

27. The standard set by Board includes a requirement to plead the time spent performing each task. General assertions regarding work performed are insufficient. In this case, the responding parties were provided with advance notice of the standard they had to meet. Information Bulletin No. 9, which was delivered to the responding parties by the Carpenters with the application, provides as an example of the basic facts which must be pleaded, the length of time the individuals performed each task. Further, the responding parties were expressly directed to meet this standard and were warned of the consequences for failing to do so in the Board's Initial Decision. Paragraph 14 of the Initial Decision provides:

14. The Board directs the responding party no later than 10 days from the date of this decision to deliver to the applicant and file with the Board a statement of its position in response to the applicant's challenges and additions, together with its reasons for those positions and the basic facts on which it relies. The basic facts should include at least where the individual was working, what tasks the individual was performing and how long the individual performed each of these tasks, particularly, but not only, where it may be arguable that tasks performed by the individual may fall outside of the craft bargaining unit being sought. The employer must establish a prima facie case for each of its positions. If the employer does not do so, the Board may determine that a full hearing is not warranted to determine the employee status of any given individual.

28. In the circumstances, the responding parties' submissions addressing the status of Migan fail to meet the standard requirement to warrant a hearing on the issue. The responding parties failed to identify when or for how long the tasks it says were not carpenters' work was

performed on the application filing date or even if the work pled was in relation only to the application filing date. Together, the deficiencies are fatal. Even accepting the responding parties' assertions at their highest, they do not disclose a factual foundation upon which the Board could conclude that Migan was performing bargaining unit work for the majority of his day on the application filing date. The responding parties have failed to establish a *prima facie* case that Migan should be excluded from the bargaining unit.

29. Otherwise, the responding parties' brief suggestion in its submission that Migan was an independent contractor amounts to a conclusory statement that does not warrant further inquiry by the Board. Similarly, the issues of whether Migan worked limited hours, in general and whether he was a student are not relevant to determining whether Migan was an employee in the bargaining unit on the application filing date.

30. The facts relied upon by the responding parties in support of their claim that Hache was an independent contractor at the material time are not sufficiently particularized to support the conclusion the responding parties urge the Board to make regarding his status. Generalized pleadings related to billing practices, accounting software entries and the provisions of tools are not enough, even if accepted as true, to allow the Board to conclude that Hache was an independent contractor on the application filing date.

31. Critically, the responding parties' submissions addressing the status of Hache are silent on some of the core indicia usually considered by the Board in determining the independent v. dependent contractor issue. The pleadings filed by the responding parties do not address, in any meaningful way, the issue of on-site supervision and, more generally, the manner in which the relationship between the responding parties and Hache was structured. The responding parties have not pleaded any basic facts showing that Hache had control over the work he performed. They did not explain how the contractual arrangement with Hache came about, how Hache knew to perform the work he did on the responding parties' job sites, whether Hache performed work for the responding parties previously or how his work schedule was set. Further, I do not find the text messages provided by the responding parties to be of any assistance to the responding parties' position but suggest that he was provided some direction regarding the work he performed.

32. There is nothing in the responding parties' submissions or documents that were filed that could lead the Board to conclude that Hache supplied anything other than labour to the responding parties. The responding parties noted as much stating the "billing entry" for Hache states "Based on agreed-upon work hours for the payable period". The responding parties' submission that Hache supplied some unidentified tools does not alter this view of the responding parties' submissions.

33. The facts advanced by the responding parties, relating primarily to billing practices, accounting treatment, and the provision of unspecified tools, are equally consistent with an employment or dependent contractor relationship; they do not convince me that Hache was operating an independent business. In my view it was incumbent on the responding parties to plead more to require a hearing on the issue of Hache's status.

34. In the absence of sufficient pleaded facts addressing control, supervision, and the structure of the relationship I am prepared to decide, pursuant to Rule 41.3, that Hache was an employee of the responding parties, within the meaning of the Act. A hearing is therefore not warranted, and he will be included on the employee list in this matter.

35. For these reasons, I am satisfied that the responding parties have failed to meet the Board's established pleading standard with respect to both Migan and Hache. The material facts necessary to establish a *prima facie* case in respect of Hache have not been pleaded. Otherwise, there is no genuine issue requiring a hearing as it relates to Hache and his status can therefore be determined on the materials before the Board pursuant to Rule 41.3.

### **Next Steps**

36. Having regard to the findings above the Carpenters find themselves in a certifiable position, but for the issue of the proper name of the responding parties. The Board must resolve this issue before it can certify the Carpenters. The Board does not typically issue a certificate in the name of two or more corporations unless those corporations are agreed to be, or found by the Board to be, one employer within the meaning of the Act. It appears that they responding

parties take the position that Wealthridge Construction Ltd. is the only appropriate responding party in this matter.

37. In the circumstances the Board directs the applicant to advise the Board, within five days of this decision, whether it wishes to have a certificate issued in respect of the all the named corporate entities or alternatively, if the applicant is content to have the Board treat only Wealthridge Construction Ltd. as the responding party, and the employer of Migan and Hache for the purposes of this application.

38. I am seized.

---

"Neil Keating"  
for the Board