News

OLRB Considers Legitimacy of Subcontractor Relationship

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The Ontario Labour Relations Board recently exercised its discretion under section 1(4) of the *Labour Relations Act, 1995* and dismissed a related employer application without a hearing. The union, which had exercised its bargaining rights with a subcontractor, alleged that the principle of that subcontractor was a “ghost at the bargaining table” and was in fact the real employer.

The Board disagreed. It found that a legitimate subcontracting relationship existed between the subcontractor and the principle. The union had accepted the subcontractor as the employer through several rounds of bargaining, the controls relied on by the union had been “in plain sight for many years,” there was no evidence of a scheme to defeat bargaining rights and the Board’s upstream jurisprudence had been correctly decided. The Board recognized that in most subcontracting arrangements, it is implicit that if the subcontractor loses a contract, employment may be lost as well. However, section 1(4) was not designed to protect against “market forces whether or not there may be destructive impact upon bargaining rights.” A more detailed discussion of this case is found in our Case in Point blog post, “OLRB Dismisses Related Employer Application Involving an Employer and its Sub-Contractor.”