

Latest Word on Two-Tiered Union Initiation Fees

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Many building trades' unions operating in the construction industry in Ontario have a two-tiered membership initiation fee. Under the two-tiered system, there is a usually lower initiation fee for those who join the union as a result of a union's organizing campaign and a higher initiation fee for all other people who join the union. People who join the union as a result of an organizing campaign are usually not asked to pay the initiation fee unless the union is actually certified.

The Ontario Labour Relations Board recently examined this practice in the decision of *Graham Bros. Construction Ltd. v. LIUNA*. In this case, Labourers' International Union of North America applied for certification of a group of labourers employed by Graham Bros. Construction Ltd. The application involved many days of hearing before the Board.

In the course of the proceedings, it came to the attention of the employer that there may have been some irregularities in connection with the signing of the union membership cards. Some of the employees alleged that at the time they were approached by a LIUNA representative they were told that if they signed a membership card during the organizing campaign, they could join the union for \$50. If, however, they did not, they would have to pay a larger amount in order to keep working for their employer once the union was certified.

The Board noted the following in connection with the collection of membership cards:

1. The Board requires a high standard of integrity on the part of union officers in the soliciting, gathering and presentation to the Board of membership evidence;
2. A union officer is under a duty to refrain from making false or misleading statements in the course of an organizing campaign;
3. A union must make the lower initiation fee available to all employees of the employer who are employed at the time of certification, not just those who sign a membership card;

4. Union representatives must not leave an impression with employees that if they do not sign a membership card when asked they will be charged a higher initiation fee.

The Board held that the comments made by one of the LIUNA organizers cast doubt upon the reliability of all of the membership evidence filed in support of the application because the Board was unable to determine whether the employee signed the card because the employee wanted to join the union or rather because the employee wanted to avoid the potential of having to pay a higher amount later.

It was submitted at the hearing that only the membership cards of those who gave evidence to the effect that they received this representation should be discounted. The Board rejected this submission and said that given that the comments were made to at least some employees, it was unclear as to how many employees were aware of the statements and had joined the union as a result of those statements.

In order to remove the doubt as to who wished to join the union, the Board directed a representation vote amongst all employees in the bargaining unit.