



ONTARIO LABOUR RELATIONS BOARD

OLRB Case No: **0019-24-R**

Canadian Union of Postal Workers, Applicant v **SkipTheDishes Restaurant Services Inc.**, Responding Party

BEFORE: Peigi Ross, Vice-Chair

DECISION OF THE BOARD: April 8, 2024

1. This is an application for certification filed under the *Labour Relations Act, 1995*, S.O. 1995, c.1, as amended (the "Act").

2. Based on my review of the records maintained by the Board, I am satisfied that in an earlier proceeding under the Act the applicant has been found to be a trade union. Therefore, having regard to section 113 of the Act and the Board's records, the Board finds that the applicant is a trade union within the meaning of section 1(1) of the Act.

3. The application was delivered on April 3, 2024, to what appears to be a law firm in Ottawa. The applicant explains the delivery of the application by way of a letter dated April 8, 2024. It cites *SkipTheDishes Restaurant Services Inc*, 2024 MBCA 3 (CanLII) for the proposition that the responding party continues to operate under the name "SkipTheDishes Restaurant Services Inc". The applicant has provided both Federal and Provincial corporate profile reports each of which list the address to which the application was delivered as the responding party's business address. The Board has held that an applicant may rely on corporate filings to affect service in applications for certification, see; *M3C Demolition Ltd.*, 2009 CanLII 59579 (ON LRB) at para. 40 and the cases cited therein at paragraphs 31 – 38, and *Reids Uptown Homes*, 2007 CanLII 17488 (ON LRB) at para 40. Based upon the foregoing, the Board is satisfied that the application was properly delivered to the responding party.

4. The responding party, although duly served with the application material on April 3, 2024, according to the certificate of delivery filed by

the applicant, failed to file its response with the Board within the time stipulated by Rule 9.5 of the Board's Rules of Procedure.

5. The applicant has filed both photocopied and electronic membership evidence. By way of a Notice to the Community dated March 25, 2020, the Board advised that during the COVID-19 pandemic it will continue to accept photocopies of membership evidence. The Board has reviewed the photocopied evidence and finds that it is clear and legible and can be relied upon in support of this application. The Board directs the applicant to retain the original membership evidence as the Board may require the applicant to produce it at a later date. The applicant has provided a declaration setting out the process and persons involved in the creating and signing of the electronic membership cards using the Adobe Sign software as well as the steps it took to verify the authenticity of the membership evidence. The Board has accepted the use of this software in a number of other applications (see, for example, *Ontario Public Service Employees Union v Peel District School Board*, 2022 CanLII 21296 (ON LRB)). The Board has reviewed the applicant's submissions and the electronic membership evidence, and it is satisfied that this electronic membership evidence can be relied upon in this application.

6. It appears to the Board on an examination of only the information provided in the application and the information and membership evidence filed by the applicant (see section 8(3) of the Act), that not less than 40% of the individuals in the bargaining unit proposed in the application for certification were members of the union at the time the application was made.

7. The Board directs that a representation vote be taken of the individuals in the following voting constituency:

all employees performing food and alcohol delivery services, including direct employees and/or dependent contractors for Skipthedishes Restaurant Services Inc. in the city of Hamilton, Ontario, save and except any managers, positions above the rank of manager, office staff, marketing and/or sales staff, technical and/or information technology staff, human resources staff, reception and/or administrative staff, and accounting staff.

8. The Board has advised that it will continue to conduct electronic votes until further notice. Both the applicant and the responding party are directed to provide only to the Board the email addresses for each of the individuals in the voting constituency so that the Board can provide electronic email notice of the vote. Within this same timeframe, each of the applicant and responding party must also email only the Board the mailing addresses, telephone numbers and employee numbers to the extent that it is in possession of such information for each of the individuals in the voting constituency. In the event of a conflict between the information provided by the respective parties, the Board will use the information provided by the responding party. The parties are directed to email all of this information to the Board by 12:00p.m. on April 9, 2024, at: **OLRBVotes@ontario.ca**. This information must be provided on an Excel spreadsheet.

9. The vote will be held on **Thursday April 11, 2024, and the voting will be open until Wednesday April 17, 2024**. Other vote arrangements will be as directed by the Registrar and set out on the attached "Notice of Vote". The vote times may be extended at the discretion of the Manager of Field Services.

10. The responding party is directed to provide to the Board the required Schedule A and B list of employees by **no later than 12:00p.m. on April 9**.

11. All individuals who had an employment relationship with the responding party in the voting constituency on April 3, 2024, the certification application filing date, are eligible to vote. Employees having an employment relationship on April 3, 2024, the certification application filing date, include employees who were not at work on that date, so long as there is a reasonable expectation of their return to employment.

12. Voters will be asked to indicate whether or not they wish to be represented by the applicant in their employment relations with the responding party.

13. The responding party is directed to email copies of this decision and the "Notice of Vote" to each employee in the voting constituency, and post copies of this decision and of the "Notice of Vote" adjacent to the "Notice to Employees of Application for Certification". These copies must remain posted for 45 business days.

14. Any party or person who wishes to make representations to the Board about any issue remaining in dispute which relates to the application for certification, other than status disputes, must file a detailed statement of representations with the Board and deliver it to the other parties, so that it is received by the Board within five days (excluding Saturdays, Sundays and holidays on which the Board is closed) of the date on which the vote is taken. Representations with respect to any status disputes must be made in accordance with the directions provided in Information Bulletin No. 4: Status Disputes in Certification Applications (Non-Construction).

15. The matter is referred to the Registrar.

"Peigi Ross"
for the Board