

IN THE SUPREME COURT OF NOVA SCOTIA

Citation: Twin City Drywall and Interiors Limited v. United Brotherhood of Carpenters and Joiners of America, Local 83, 2008 NSSC 41

Date: 20080228

Docket: SH 286615

Registry: Halifax

Between:

Twin City Drywall and Interiors Limited
(Talbot's Drywall and Interiors Limited)

Applicant

v.

United Brotherhood of Carpenters and Joiners
of America, Local 83

Respondent

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Judge: The Honourable Justice C. Richard Coughlan

Heard: January 16, 2008 (in Chambers), in Halifax, Nova Scotia

Written Decision: February 28, 2008

Subject: Judicial Review

Summary: Twin City Drywall and Interiors Limited (the old company) was incorporated November 16, 1987. The company was struck from the register November 27, 2002. The old company was subject to the collective agreement between the United Brotherhood of Carpenters and Joiners of America, Local 83 and the Construction Management Bureau Limited. The son of one of the

principals of the old company incorporated a company called Twin City Drywall and Interiors Limited on March 29, 2005 (the new company). The Union filed a grievance alleging the new company was subject to the collective agreement. An arbitrator was appointed pursuant to s. 107 of the *Trade Union Act*. The arbitrator found there had been a transfer of the business from the old company to the new company and the new company was bound by the collective agreement.

Issue: Did the *Trade Union Act* give the arbitrator authority to decide whether a transfer of business had occurred between the two companies?

Result: The arbitrator's decision was set aside. The *Trade Union Act* provides with regard to the construction industry the Construction Industry Panel has authority to determine the issue of successor rights and whether a transfer of business has taken place. A labour arbitrator appointed pursuant to s. 107 of the *Act* does not have authority to make such a determination.

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