



ONTARIO **ELECTRICAL** LEAGUE

# Dialogue

A Publication of the Ontario Electrical League

Issue 32-4 Fall 2010

# Three-Month Reprieve to Register Apprentices

By: Adrian T. Bilyk, Articling Student,  
Sherrard Kuzz LLP, Employment  
& Labour Lawyers

In May of this year, the Ontario Court of Justice held that the *Trades Qualification and Apprenticeship Act (TQAA)* permits a worker to work at a trade for which an apprenticeship program is established, without a certificate of apprenticeship or qualification in the trade, for up to three months. This is an important decision for all employers governed by the *TQAA*, including electrical contractors and related fields.

## Brief Background

In Ontario, the *Occupational Health and Safety Act* states “an employer shall ensure that a worker shall not carry out work in a scheduled trade unless he or she is authorized to carry out work in that trade under the [TQAA]”. A number of trades fall within the

*Continued on page 3 ▶*

# Register Apprentices

*Continued from page 1*

legislation, including “electrician”.

One of the components of “authorization” is “registration” with the Ministry of Training, Colleges and Universities, as either a licensed trades-person or apprentice. Particularly as it relates to an apprentice, sections 9 and 10 of the *TQAA* require a worker to register as follows:

9. (1) Every person who commences to work at a trade for which an apprentice training program is establish [sic] but who does not hold a certificate of apprenticeship or qualification in that trade shall,
  - (a) forthwith apply in the prescribed form for apprenticeship in that trade; and
  - (b) within three months after commencing to working in that trade, file with the Director his or her contract of apprenticeship.
- (2) Every person who fails to comply... shall, upon the expiration of the period of three months...cease to work in that trade until the person files with the Director his or her contract of apprenticeship...

The *TQAA* defines “apprentice” as a person who is at least 16 years of age and

who has entered into a contract under which the person is to receive from, or through, his or her employer, training and instruction in a trade.

## The Facts

In *Mayfair Electric*, an Inspector with the Ministry of Labour conducted an inspection of a worksite and observed a worker performing electrical work. Upon investigation, it was determined the worker was not “registered” as an apprentice.

The employer did not dispute there was a requirement to register the worker as an apprentice under the *TQAA*, nor that the worker had not yet registered. The only dispute concerned the timing of this obligation. The Ministry maintained the worker had to be registered “forthwith” before commencing work as an electrician. The employer argued the worker had a three-month window in which to register in accordance with the legislation, and further, that the window had not closed at the time of the inspection. The Ministry charged the employer with failing to comply with the *TQAA* and the matter proceeded to trial.

## The Court’s Decision

A justice of the Peace of the Ontario Court of Justice dismissed the charge on the basis that a three-month window did apply. The

Court held the *TQAA* permits a worker to work at a trade for which an apprenticeship program is established, without a certificate of apprenticeship or qualification in the trade, for up to three months.

The Court considered a number of factors, including the purpose of the legislation and prior decisions from the OLRB and WSIAT. In the end, the Court found the requirement to register to be public welfare legislation, intended to be interpreted generously; and further, “the Legislature clearly intended to provide a 90-day window within the [TQAA] for new workers to register as apprentice electricians...”.

*Adrian Bilyk is an Articling Student with Sherrard Kuzz LLP, a management-side employment and labour law firm in Toronto. Adrian can be reached at 416-603-0700 (Main), 416-420-0738 (24 Hour) or by visiting [www.sherrardkuzz.com](http://www.sherrardkuzz.com).*

*The information contained in this article is provided for general information purposes only and does not constitute legal or other professional advice. Reading this article does not create a lawyer-client relationship. Readers are advised to seek specific legal advice from Sherrard Kuzz LLP (or other legal counsel) in relation to any decision or course of action contemplated. ©*