A Review of CLAC Collective Agreements in Ontario's ICI Construction Sector

Historical Underpinnings and Philosophy

The Christian Labour Association of Canada (CLAC) is an independent Canadian union that was established by Christian reformed Dutch immigrants in the early 1950s. During its early years, CLAC remained concentrated in the Dutch community and focused primarily within the construction industry.

In 1963, CLAC gained trade union status in Ontario when the Ontario Supreme Court of Ontario overruled a decision of the Ontario Labour Relations Board (OLRB) which denied CLAC's attempt to organize the Tange Construction Company in Trenton on the basis that unions, as secular institutions, required a degree of religious neutrality. Chief Justice J.C. McRuer ruled that the OLRB had no legal evidence to rule that the Union was discriminatory. McRuer summarized his argument by stating "if Marxists can have a union why shouldn't the Christians." Since gaining trade union status in Ontario, CLAC has been recognized as a trade union in Manitoba, Saskatchewan, Alberta and British Columbia. On a national level, CLAC was recognized by the Canadian Industrial Relations Board.

In addition to its focus on the construction industry, CLAC has expanded its membership into the transportation, hospitality, manufacturing and healthcare sectors. With over 50,000 members, CLAC claims to be one of Canada's fastest growing labour unions.

Traditionally, CLAC has distinguished itself from other trade unions by espousing its Christian view of labour relations and the rejection of the notion of class struggle. Today, the role of religion in CLAC is down played and CLAC notes that is not a religious movement; nor is Christianity a condition of membership. Their association with Christianity applies only to their belief that Christian principles—such as democracy, freedom, justice, responsibility and respect—are central to the effective running of their organization. Although the religious undertones are muted, the principles of the Dutch Reform movement still come through resulting in a more conciliatory and employer-friendly model of bargaining.

CLAC Structure and Organization

According to the CLAC Constitution (2006), CLAC is a national labour organization consisting of craft, trade, industrial, occupational, student and solidarity locals. The governance of CLAC is structured through a National Board, Local Boards and a Staff Council and Executive. Each local is a separate union in its own right. The Staff Council Executive assigns local numbers and delineates the jurisdiction of each local. A local may be formed if it has at least five workers employed in the same (or closely related) craft, trade, industry or occupation.

The National Board, elected at the biennial national convention, oversees the general governance of the union including: financial, administration, publishing, research, education, and other support services provided to the regional offices and local unions. The National Board is rarely concerned with the day-to-day operations of the union, which means much of this is delegated to the Local Boards and Staff Council. However, the National Board has final decision making authority in the case of disputes and sanctions any strike action.

The Staff Council and Executive are appointed by the National Board. The Staff Council is "responsible for promoting the interests of CLAC within the framework of this constitution, the decisions of the National Board and the National Convention" (CLAC Constitution, 2006). This includes the authority to: conclude, execute or administer collective agreements on behalf of CLAC or an affiliated local, appoint stewards and bargaining committee members and CLAC representatives to serve as officers of a Local Board. Only a CLAC Representative has the authority to refer a grievance under a collective agreement to arbitration. In addition to administrative powers, Staff Council representatives have voting rights at the National Convention.

A Local Board is responsible for the supervision of all activities of the local and its constituent bargaining units. However, this responsibility is achieved with close cooperation and consultation with CLAC representatives from the Staff Council. A Local Board is "deemed to have authorized the regional and national CLAC Representative to act as agents of the local in conducting the day-to-day affairs of the local including the entering into and administration of collective agreements on behalf of the local and its members" (CLAC Constitution, 2006). CLAC representatives continue to work closely with organized companies even after the company is certified. This approach to labour relations is more "employer-friendly" as opposed to mainstream trade unions who view the interests of the worker first and foremost.

CLAC has 14 regional offices situated in BC, Alberta, Saskatchewan, Manitoba and Ontario. The **Directory of Labour Organizations in Canada** notes that CLAC has 53 locals across Canada and represents over 50,000 workers.

CLAC and Ontario's Construction Sector

An analysis of collective agreements on file with the Ontario Ministry of Labour reveals that 24% of CLAC members are employed in the construction sector. CLAC has approximately 100 collective agreements with construction employers across Ontario, representing approximately 2,500 members. Collective agreements may be signed with CLAC directly or with one of its four construction locals. Most construction employers sign voluntary agreements with CLAC. The Progressive Contractors Association of Canada (see Appendix 4) represents the interests of many of the CLAC contractors.

Largest Construction CLAC Employers (A complete list of CLAC employers is provided in Appendix 5)	
JMR Electric Ltd	205
North America Construction (1993) Ltd	155
Horizon Concrete Construction Ltd	150
Rankin Construction Inc	150
O'Connor Electric Independent Contractors Assn	126
Mapleview Electric Co Ltd	80
Wabi Development Corp Project Management/General Contractors	75
Pro Electric Inc	67
C E C Services Ltd	65
Looby Construction Ltd	56
DECC Electrical Inc	55
General Maintenance Services Inc	55
C E C Mechanical Ltd	50
Maple Reinders Constructors Ltd	50
Arcon Electric Ltd	45
Source: Ontario Ministry of Labour, 2011	

CLAC does not operate a hiring hall, but does offer an Employment Assistance Service (EAS) where they connect workers with employers. Workers who register with CLAC's EAS grant permission to CLAC to send their work information to prospective employers. CLAC does not guarantee work or that workers will be hired in any particular order.

Four construction locals operate in Ontario.

- **Construction Workers Local 6** represents construction workers in south-central and south-western Ontario. It was formed in 1960 as part of CTUC and merged with CLAC in 1979.
- **Construction Workers Local 52** represents construction workers in Ontario, primarily north and east of Toronto. It was formed in 1960.
- **Construction Workers Local 53** represents construction workers in and around Windsor, Sarnia, Chatham, and London. It was formed in 1962.
- **Construction Workers Local 150** represents construction workers primarily in St. Catharines. It was formed in 1975.

CLAC Collective Agreement Components

In negotiating wages and benefits for its members, CLAC considers the "economic viability of the enterprise" and champions an open shop model. According to the CLAC constitution it is important to balance individual and collective interests.

This analysis is based on a review of 10 current CLAC collective agreements. Although each collective agreement is negotiated with individual companies, many of the components in the agreements are identical with working conditions, wages, pension and health & welfare contributions varying.

a) Working Conditions and Terms

A comparison of working conditions for the 10 CLAC collective agreements reviewed are outlined in Appendix 1. Below is a summary of the key components.

Hours of Work and Overtime

Most of the CLAC collective agreements defined the standard work week as Monday – Friday. However, a few identified Monday – Saturday as the standard work week. CLAC hours of work ranged from 40 – 50 per week, with most defining regular hours of work as 44 hours per week.

Overtime, work done in excess of 44 hours per week, is paid at 1½ times the regular hourly rate. Furthermore, overtime will be paid for all hours in excess of 10 hours per day. Some of the agreements, stipulated that work performed on Saturday, irrespective of weekly hours, is paid at a rate of 1½ times the regular rate. Others were silent on the issue and therefore, unless a worker was over the 44 hours, they would be paid straight time on Saturday. One collective agreement noted that overtime was based on daily hours worked in excess of 10 hours, but there was no weekly overtime provision.

All CLAC collective agreements reviewed indicated that “Work shall not be performed on Sunday.” Some, although not all collective agreements, offers time and a half or double time if in extraordinary circumstances work is required on a Sunday.

Shift Premiums

Some of the CLAC agreements noted that the employer will pay a premium if the employee is required to work any hours between 7 pm and 7 am. This premium ranges from $2 - $2.50. Overtime pay precludes a shift premium. Only 3 of the 10 agreements reviewed included an article on shift premiums.

Travel

All of the agreements addressed the issue of travel. A free zone, based either on principle residence or the company office, was defined in all agreements. The size of the free zone varied from 35 – 100 kilometers. One agreement limited the free zone to the Regional Municipality where the company was located.

Probationary Periods

Most of the collective agreements reviewed stipulated a probationary period for new workers ranging from 2 – 5 months. During this probationary time, workers did not have access to the grievance procedure, benefits and in most cases were paid at a lower rate than a non-probationary worker. This applied to all levels of workers.

Grievance Procedures

CLAC collective agreements outline a grievance procedure which was consistent across all agreements reviewed. The agreements distinguish between single, group or policy grievances. Notification of a single and group grievance must be occur within five days of the incident. A two (or three) step procedure is outlined in the collective agreement. Step 1 requires the employee, accompanied by a steward or local representative, will submit the grievance to his/her immediate supervisor within the five day window. The supervisor will notify the grievor and the union representative of his/her decision, in writing, within 3 days. If the grievance is not settled under step 1, a union representative may, within 5 workdays of the decision, submit a written grievance to the employer. The parties must meet to discuss the grievance within 1 week. The employer written decision must be made within 3 workdays of the meeting. The "grievance may be referred to arbitration" if the parties fail to settle the grievance at step 2.

A 'policy' grievance is defined as "a question relating to the interpretation, application or administration of the Agreement". The procedure for a policy grievance bypasses Step 1 and commences with a meeting with the employer or grievance committee.

Sub-Contracting Clause

All CLAC agreements include the following sub-contracting clause:

> The Employer may only contract out work where:
>
> a) he does not possess the necessary facilities or equipment;
> b) he does not have and/or cannot acquire the required manpower; or
> c) he cannot perform the work in a manner that is competitive in terms of cost, quality, and within required time limits.
>
> The Employer will discuss with the Union, at the pre-job conference, the portion or portions of the project that the Employer wishes to sub-contract and the subcontractors to be hired to do such work
>
> (Wabi Development Corporation and Construction Workers Local 52, January 1, 2009-December 31, 2010)

Duration of the Collective Agreement

All CLAC agreements reviewed specified a duration period of 2 or 3 years and included language to extend/renew the agreement one year unless notice was given by either part to "delete, change, amend or cancel any of the provisions within the period from 120 days prior to the renewal date".

Wage and Benefit Package

A comparison of CLAC's wage and benefit package is found in Appendix 2 (Licensed Journeyman) and Appendix 3 (Labourers). For comparative purposes, wage and benefit information is provided for select Building Trades.

Wage Rate
CLAC agreements that cover more than one trade have one base wage rate for all licensed journeymen regardless of trade. A comparison of CLAC base wage rates for licensed journeymen with those in the Building Trades Unions shows that CLAC wages are, on average, 18% lower. From a total package perspective, the differential jumps to approximately 30%. It should be noted that many CLAC agreements offer premiums to the base wage for 'senior' journeyman (approximately $2/hr), certification premiums and Lead Hand premiums ($1.00 - $1.50).

Wage rates for Labourers are frequently divided into several levels depending on experience (hours of work), skill and/or type of work. Most of the collective agreements reviewed defined key job tasks for the different categories of workers.

Key Wage Characteristics of CLAC Collective Agreements:

- Probationary periods for new employees ranging from 2 – 5 months
- Premiums for Senior Journeymen, Lead Hands and Safety Reps
- Multiple wage levels for Labourers
- Competition Clauses that allow amendments to the agreement i.e."The wage rate and other provisions set out may be amended by mutual agreement for specific projects in order to enable the Employer to compete with non-union competition and/or specific union project agreement rates."

Health & Welfare
Employers who are signatory to CLAC collective agreements agree to contribute to the CLAC Health Fund or their own Health Plan. Some employers offer this benefit after the probationary period, others start contributing within the first month of employment. With respect to who pays, CLAC employers pay 100% of the premium. In one CLAC collective agreement review, the employer's portion of the premium was based on years of service as follows: 3 months – 3 years – 60%; 3 years – 5 years – 70%; 5 years – 8 years – 80%; Over 8 years – 90%.

CLAC's website notes that benefit providers include industry leaders such as Sun Life, Standard Life, RBC Insurance, Chartis Insurance and Ceridian Lifeworks. Although specific details for individual plans are not included on their website or in all collective agreements, key features include:

- prescription drugs
- vision care
- dental care
- extended health (e.g., orthotics, hearing aids, paramedical services, etc.)
- disability benefits (short & long term)
- life insurance
- accidental death & dismemberment
- out of Canada/Province emergencies
- Employee & Family Assistance Program (EFAP)

Pension
In addition to Health & Welfare, CLAC members have access to the CLAC Pension Plan. This union pension plan is registered with the Canada Customs and Revenue Agency and the Financial Services Commission of Ontario. Most agreements reviewed offered an increasing scale of contributions from 3% (for up to 5 years of service) to 6% for 20 or more years of service. The employee must also contribute to the plan in order to receive the

employer contribution. As with Health & Welfare, employers may offer their own Pension Plan. In one collective agreement, the employees have the opportunity to vote annually whether to remain with the company plan or to move to the CLAC plan.

Union, Training & Industry Funds
CLAC includes a $0.15 employer contribution for its Education and Assistance Fund. The most recently ratified collective agreements also include a $0.15 Industry Promotion employer contribution.

CLAC offers safety and skills training through five Ontario Training Centres located in Chatham, Grimsby, Mississauga, Cambridge and Ottawa. Programs are offered in: Health & Safety; Skills Training; Labour Relations; and Personal Development. CLAC also offers members apprenticeship awards and an apprenticeship trade school reimbursement program.

Distinguishing Characteristics from AFL-CIO Building Trades

1. Unlike traditional labour unions which focus on the rights of workers, CLAC's social democratic roots have led to a more conciliatory brand of labour relations. CLAC considers the "economic viability of the enterprise" in their collective bargaining model. As such they espouse open shops and free association to balance collective and individual interests.

2. In the ICI sector of the construction industry, CLAC bargaining units are certified on an individual basis and they are not part of the province-wide bargaining scheme through the Designation process. This allows CLAC to negotiate employer-specific agreements.

3. CLAC pursues "wall-to-wall" bargaining units with all employees, regardless of trade, under one collective agreement.