

REVIEW PANEL DECISION

Ratio Review RR9-2012

Ratio Review for:

Heat and Frost Insulator

Submitted to:

Board of Governors, Ontario College of Trades

Submitted by: Ratio Review Panel RR9-2012

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Introduction

This Ratio Review, RR9-2012, is being undertaken per Part IX of the *Ontario College of Trades and Apprenticeship Act, 2009* ("OCTAA") and *Ontario Regulation ("O. Reg.") 458/11*. The Review Panel ("the Panel") members are: Ian Anderson (Chair), Phillip Besseling, and Larry Lineham. There is one trade included in this Review. It is heat and frost insulator. The current journeyperson-apprentice ratio for the trade is 1:1 for the first apprentice and 3:1 for each apprentice thereafter. The trade is a voluntary trade: certification is not a requirement to practice in the trade.

The Review Process

The invitation for written submissions for RR9-2012 was publicized on October 30, 2012. Information about the location, date, and time of the oral consultation was posted on the College website on October 30, 2012. The written submission deadline was December, 14 2012 and all submissions were posted on the Ontario College of Trades ("OCOT" or "the College") website by December 19, 2012. This information was also provided to the parties who made requests to make submissions on December, 14 2012 and further confirmed on February 5, 2013. The oral consultation was held on February 7, 2013.

O. Reg. 458/11 stipulates that the Review Panel shall review the written and oral submissions against the following criteria in determining the appropriate journeyperson to apprentice ratio for these trades:

- i/ The scope of practice of the trade.
- ii/ The apprenticeship program established by the College.
- iii/ How the journeyperson to apprentice ratio for the trade may affect the health and safety of apprentices and journeypersons working in the trade and the public who may be affected by the work.
- iv/ The effect, if any, of the journeyperson to apprentice ratio of the trade on the environment.
- v/ The economic impact of the journeyperson to apprentice ratio of the trade on apprentices, journeypersons, employers and employer

associations and, where applicable, on trade unions, employee associations, apprentice training providers and the public.

vi/ The number of apprentices and journeypersons working in the trade.

vii/ The rates of completion for apprentices in an apprentice training program for the trade.

viii/ The journeyperson to apprentice ratio, if any, for a similar trade in other jurisdictions.

ix/ The supply of, and demand for, journeypersons in the trade and in the labour market generally.

x/ The attraction and retention of apprentices and journeypersons in the trade.

xi/ The average age of apprentices and journeypersons in the trade and the projected attrition of journeypersons working in the trade.

Submissions Received

The Review Panel received written submissions from: Heat and Frost Insulators & Allied Workers Local 95 (“Local 95”) and Master Insulators Association of Ontario (“MIAO”) (joint submission); Ontario Home Builders’ Association (“OHBA”); and Ontario Construction Employers Coalition (“OCEC”). Each of these parties requested an oral consultation. As noted, a consultation was held on February 7, 2013. Oral submissions were made by the Local 95 and the MIAO jointly and by the OHBA. The OCEC did not attend.

Local 95 represents 1,800 heat and frost insulators. Its members work across Ontario in the institutional, commercial and industrial sector (“ICI sector”) of the construction industry. MIAO is the designated employer bargaining agency under the *Labour Relations Act, 1995* for the insulation industry in the ICI sector. Local 95 and MIAO run a jointly trustee Training Centre. This is the only Training Delivery Agent in the province and delivers apprenticeship programs to 500 apprentices with 3 annual intakes. The Training Centre has been operational since 1993. Prior to that, these parties have experience in providing part time training since the early 1970s. Local 95 and MIAO made joint submissions in which they seek to have the current journeyperson to apprenticeship ratios of 1:1 for the first apprentice and 3:1 for each apprentice thereafter preserved.

OHBA describes itself as the voice of the residential construction industry. It states:

OHBA represents over 4,000 member companies, organized through 30 local associations across the province. Our membership is made up of all disciplines involved in residential construction including: builders, land developers, renovators, trade contractors, manufacturers and suppliers.

OHBA seeks to have the journey person to apprenticeship ratio reduced to 1:1 across the board. During the course of the consultation it became apparent that members of the OHBA do not in fact employ members of the trade. Rather, they employ labourers and carpenters to perform insulation work as required. This work is not as specialized as the work of the members of the trade performed in the ICI sector.

The OCEC states that it “consists of 30 associations representing more than 7,400 small, medium and large Ontario businesses and over 125,000 skilled tradespeople across the province.” The OCEC did not take a position as to whether or not the current ratios should be preserved. Its submission with respect to each of the criteria except criteria (iii), (iv) and (v) was as follows:

This is vital factual information that must ... be examined in order to come to a conclusion on this important matter. The Coalition believes in the interest of the integrity of these proceedings that this information should be provided by the College to stakeholders and Adjudicators as part of the package of information when each ratio review is launched.

The Ontario College of Trades has an existing mandate to provide research in relation to the trades – see s. 3(11) of the Ontario College of Trades and Apprenticeship Act.

What ever the merits of this submission, we have no jurisdiction to consider it or give effect to it. Rather, we are required to review the written and oral submissions against the specified criteria.

Criterion 1 – Scope of Practice of the Trade

The applicable scope of practice for Heat and Frost Insulators is set out in section 17 of O. Reg. 275/11:

The scope of practice for the trade of heat and frost insulator includes the following:

1. Applying insulation on mechanical systems and interior surfaces of buildings.
2. Applying fabric, metal and plastic finishes.

Criterion 2 – Apprenticeship Program Established by the College

There is no apprenticeship program established by the College.

Criterion 3 – Journeyperson to Apprentice Ratio Effect on the Health and Safety of Apprentices, Journeypersons, and the Public

The OCEC noted that “The Armstrong Report: The Compulsory Certification Project”, which discusses the limited health and safety data available on the related topic of compulsory certification, stated the following in 2008:

The key issue on the health and safety impact turns, then, on whatever empirical evidence exists to support - or refute - the proposition that those trained under a compulsory/restricted regimen have superior health and safety records to those trained under voluntary/unrestricted systems. I have searched in vain for data that would enable me to provide a reliable, supportable response to this key question.

It appears the situation may not have changed. In any event, no empirical data was provided to the Review Panel establishing a link between journeyperson to apprentice ratios and health and safety hazards.

The OCEC argues that there is no evidence that health and safety and ratios are linked.

Local 95 and MIAO describe a number of serious health and safety hazards associated with the work of the trade, to both individuals working in the trade and the public. These include: the physical demands of the work; the fact that 80% of insulation work is done from a ladder, with attendant risk of falls; in some instances exposure to high temperatures; exposure to dust from hazardous materials including asbestos; the potential for leaks, ruptures or explosions from systems using gases or liquids such as ammonia, nitrogen or glycol; and mould hazards arising

from improperly performed insulation work. Local 95 and MIAO argue that the supervision inherent in the current ratios have been successful in addressing these risks and that it is incumbent on those seeking to reduce the ratios to provide clear data justifying the change.

OHBA argue that there is no objective basis for the claim advanced by Local 95 and MIAO. On the contrary, it points to data derived from the National Apprenticeship Survey conducted by Statistics Canada in 2007. It argues that data showed that there was no correlation between journeyperson to apprenticeship ratios, which differ from province to province, and the level of supervision by journeypersons reported by apprentices.

We note that the data relied upon by the OHBA appears to relate to all trades across all provinces: i.e. it does not specifically break out heat and frost insulators. Nonetheless, it does serve to highlight that there is no necessary correlation between a higher journeyperson to apprentice ratio and the amount of supervision which an apprentice receives. Based on the information available to us, we are unable to draw any conclusions with respect to the effect of the journeyperson to apprentice ratio on health and safety.

The OHBA makes one argument which we specifically reject. It argues: "The primary agent responsible for health and safety of workers and the public is the Ministry of Labour." We disagree. The primary mechanism for ensuring the health and safety of workers is the workplace parties themselves, as contemplated by the internal responsibility system of the *Occupational Health and Safety Act*.

Criterion 4 – Effect on the Environment

The OCEC asserts: "There is no connection between the ecological environment and apprenticeship ratios."

The OHBA argues that there is no data available and no clear connection between environmental sustainability and the ratio of apprentices.

Local 95 and MIAO describe the important role played by properly installed insulation in conserving energy and protecting potentially hazardous facilities from physical damage. They assert that the current ratios assure proper installation will occur.

We accept that properly installed insulation has an important role in conserving energy and protecting potentially hazardous facilities from physical damage. Based on the information available to us, however, we are unable to draw any conclusions with respect to the effect of the journeyperson to apprentice ratio on the environment.

Criterion 5 – Economic Impact

It is worth repeating this criterion in full:

The economic impact of the journeyman to apprentice ratio of the trade on apprentices, journeymen, employers and employer associations and, where applicable, on trade unions, employee associations, apprentice training providers and the public.

The OCEC states that the Construction Sector Council's 2012 Forecast Report for Ontario projects "continued growth in the construction sector combined with a high number of skilled workers retiring [which] will result in the need to recruit 120,000 new workers to the trades over the next 8 years." The OCEC argues failure to lower the journeyman to apprentice ratio will result in labour shortages and consequential economic challenges. The OCEC's submissions do not, however, address the specific demand or supply of this trade.

The OHBA's written submissions relate to the roofing trade not the heat and frost insulator trade.

Local 95 and MIAO state that they have carefully monitored the attrition and retirement rates and demand for heat and frost insulators for some time. The current ratios have ensured a high employment rate for the industry. During oral submissions, Local 95 representatives testified that the hiring hall has been able to meet all demands: only ten times in the last 30 years has the hall had to resort to a travel card to permit an out of province member to perform the work. While major petrochemical projects may increase demand for members of the trade, Local 95 and MIAO project that existing ratios would permit approximately 100 more apprentices than currently in their programs.

In our view, having regard that the assessment of Local 95 and MIAO is based on decades of experience specific to the trade, this criterion weighs in favour of maintaining the current ratios.

Criterion 6 – Number of Apprentices and Journeymen Working in the Trade

Local 95 and the MIAO advise that based on the data which they have collected as the only training centre in Ontario there are currently 1192 mechanics (i.e. journeymen) and 361 apprentices in the trade. The OHBA, relying upon data provided to it by the Ministry of Training, Colleges and Universities, states that there are 380 active apprentices. There does not appear to be a material difference between these numbers.

We are unable to draw any conclusions from this fact.

Criterion 7 – Rates of Completion for Apprentice Training Program

Local 95 and the MIAO advise that based on the data which they have collected as the only training centre in Ontario, the completion rate for the apprenticeship program is 99% and the average time for completion of the program is 3 years.

The high completion rate for the apprenticeship invites the inference that existing ratios provide sufficient supervision. It does not follow, however, that existing ratios provide the necessary level of supervision. We are unable to draw upon any strong conclusion from this fact.

Criterion 8 – Ratios in Other Jurisdictions

Local 95 and MIAO assert that the current ratios are industry standard across Canada and the United States.

OHBA, however, cites the Ellis Chart produced by Human Resources and Skills Development Canada (HRSDC) in partnership with the Canadian Council of Directors of Apprenticeship (CCDA), in particular at: <http://www.ellischart.ca/tr.1d.2ch.1rt@-eng.jsp?&tid=131>. We note that this gives values for the trade “Insulator (Heat and Frost) NOC (7293)”. All provinces except Ontario appear under this entry. The values for Ontario appear at <http://www.ellischart.ca/tr.1d.2ch.1rt@-eng.jsp?&tid=99> as the trade “Heat and Frost Insulator NOC (7293)”. We note that the NOC, or National Occupational Codes, for the two trades are the same and therefore it would appear that they are comparable. The Ellis Chart provides the following information with respect to ratios:

	NL	NS	PEI	NB	QC	MB	SK	AB	BC	ON
Ratio (displayed as)	1:2	1:1	N/A	1:1	5:1 (1:1 in residential construction)	1:1	1:1, 2:1	1:2	N/A	1:1
Journeyman: Apprentice										3:1

The OHBA notes that Ontario has the highest ratios of journeymen to apprentices of all provinces except Quebec. The OHBA states, however, that in Quebec all trades in residential construction are subject to the lower ratio of 1:1. The OHBA points to Chapter 7 of the Agreement on Internal Trade, to which all provinces, including Ontario, are signatories. Paragraph 1 of Article 706 provides:

Subject to paragraphs 2, 3, 4 and 6 and Article 708, any worker certified for an occupation by a regulatory authority of a Party shall, upon application, be certified for that occupation by each other Party which regulates that occupation without any requirement for any material additional training, experience, examinations or assessments as part of that certification procedure.

The OHBA argues that as a result an individual could train in another province, with a lower journeyman to apprentice ratio, and then apply to be certified in Ontario. It argues, therefore, that if the objective is to maximize the amount of apprenticeship training being done in Ontario, then Ontario's ratios should be harmonized with that of other provinces.

In theory, in a perfect world with no other constraints to mobility, the OHBA's argument would be correct. In practice, we do not live in a perfect world. There are other constraints to mobility. In any event, maximization of apprenticeship training being done in Ontario is not among the criteria which we are directed to consider.

The fact that other provinces have lower ratios does, however, lend support to the argument that the ratios in Ontario should be lowered.

Criterion 9 – Supply and Demand for Journeymen

Local 95 and the MIAO state that they carefully monitor anticipated demand in the ICI sector and shape their labour force accordingly.

The OHBA notes that in "Construction Looking Forward 2012-2020 Key Highlights" published in 2012 the Construction Sector Council stated:

Demand requirements related to industrial and other non-residential buildings rise steadily from current levels, but labour market conditions are generally balanced. Employment is concentrated in non-residential construction. The age profile for this trade is younger than average. New entrants in the labour force are estimated to meet replacement demand requirements, but workers from outside the local market may be required to meet increased demands early in the scenario period and to maintain balanced market conditions across the remainder of the period.

We take this to be a reference to construction trades generally. In any event, as we read this passage it indicates that labour market conditions are generally balanced. The exception is an

anticipated increase in demand “early in the scenario period”, i.e. from 2012 to 2020. We do not see a temporary increase in demand as a basis for permanently changing the journeyperson to apprenticeship ratios.

Local 95 and MIAO clearly each have separate interests in monitoring the level of demand for journeypersons in the trade. We have no reason to doubt their assessments in this regard. This criterion, therefore, weighs in favour of existing ratios.

Criterion 10 – Attraction and Retention of Apprentices and Journeypersons

Local 95 and the MIAO state that the retention rate for the trade is incredibly high with very few members leaving the trade.

The OHBA points to a finding of the 2007 National Apprenticeship Survey that, apart from the Atlantic Provinces, Ontario ranks as the most difficult place for a worker to find an employer to hire them as an apprentice (across all trades). It notes that Ontario has among the highest journeyperson to apprentice ratios of all provinces. It argues that a lower ratio would make it easier for individuals to find apprenticeships. We think this is a reasonable inference which may be logically drawn from these facts.

Criterion 11 – Average Age and Projected Attrition

Local 95 and the MIAO state that the average age of journeypersons is 43 while the average age of apprentices is 31. (The OHBA, relying upon data provided to it by the Ministry of Training, Colleges and Universities, states that the average age of apprentices is 33.)

Local 95 and the MIAO assert that the current ratio allows for enough apprentices to be trained to deal with the attrition rate due to retirement. This assertion is backed by several decades of experience. Without more information or expert evidence, we are in no position to challenge this assertion.

Conclusion

The fact that other Canadian jurisdictions have lower ratios and that there is some evidence that existing ratios in Ontario (generally) make it difficult for individuals to obtain apprenticeships lend some support for the proposition that the ratios should be reduced.

The competing considerations are as follows. Heat and frost insulation is not a compulsory trade. It appears that the heat and frost insulator trade is performed only in the ICI sector. It also appears that all apprentices and journeypersons in the trade are represented by Local 95 and employed by members of the MIAO. In the result, all apprentices and journeypersons in the trade (through their representative trade union), the trade union which represents members of the trade, the employers of members of the trade (through their employer bargaining agency, the MIAO) and the apprentice training provider for the trade (the jointly trustee training centre) have expressed the view that the current ratio is appropriate. Further, they have indicated that the existing ratios will allow them to meet attrition and retirement of existing members of the trade while permitting them to increase supply of members of the trade if required by large projects, all the while maintaining high levels of employment for members of the trade. Their statements are founded on years of experience. This specific experience outweighs the more general considerations described above.

We recommend that the existing ratios be maintained.



Signed: Ian Anderson
Chair, Ratio Review Panel RR9-2012 Heat and Frost Insulator

Date: April 18, 2013