

File No. 15-006

Decision No.

**IN THE MATTER OF AN APPLICATION FOR ORDER CONCERNING STATUS OF  
SUCCESSOR TRADE UNION BEFORE THE LABOUR RELATIONS BOARD  
(PRINCE EDWARD ISLAND)**

**BETWEEN:**

**UNITED FOOD AND COMMERCIAL WORKERS, LOCAL 864**

**APPLICANT**

**AND:**

**PRINCE EDWARD ISLAND UNION OF PUBLIC SECTOR  
EMPLOYEES**

**AND:**

**PUBLIC SECTOR EMPLOYEES STAFF UNION**

**RESPONDENTS**

**DECISION**

**Background**

An Application for an Order concerning status of Successor Trade Union was filed with the Prince Edward Island Labour Relations Board (hereinafter the "Board") by the Applicant, the United Food and Commercial Workers, Local 864, (hereinafter "the Applicant"/"UFCW") on the 19<sup>th</sup> day of November, 2015.

On the 23<sup>rd</sup> day of November, 2015, a copy of the Application for Order Concerning Status of Successor Trade Union was delivered to the Prince Edward Island Union of Public Sector Employees and to the Public Sector Employees Staff Union (hereinafter collectively the "Respondents"). The Respondents were advised that the Terminal Date was set as the 14<sup>th</sup> day of December, 2015. The Respondents were further advised that any objections to the Application had to be submitted in writing to the Board on or before the Terminal Date.

There were no objections to the Application filed. However, on December 11, 2015, the Board did receive correspondence dated December 9, 2015 from the Respondent, Prince Edward Island Union of Public Sector Employees, providing information for the purposes of clarifying the description of the bargaining unit. By correspondence dated December 17, 2015 (received on the 17<sup>th</sup> day of December, 2015) the Applicant confirmed that it agreed with the clarification of the description of the bargaining unit. The Respondent Public Sector Employees Staff Union also confirmed by correspondence dated December 17, 2015 (received on the 17<sup>th</sup> day of December, 2015) that it also agreed with the clarification of the description of the bargaining unit.

## **Statutes Considered**

*Labour Act* R.S.P.E.I. 1988 Cap. L-1 sections 4 and 40(1)

*Labour Act Regulations* R.S.P.E.I. 1988 Cap. L-1 section 17(5)

## **Evidence**

In support of the Application, the Applicant filed the following documents:

1. Minutes of the Quarterly Meeting of the Executive Board of Local 864, UFCW Canada, dated 24 October 2015, signed by Myron Larkin; and minutes of meetings of the Executive Board of Local 864, UFCW Canada, for January 23, 2015, July 22, 2015, and September 28 & 29, 2015;
2. Minutes of the Public Sector Employees Staff Union - Vote to Merge with UFCW, dated 7 September 2015, signed by Blair Weeks (President) and Tammy Laybolt (Secretary/Treasurer);
3. Letter from Merrick Jamieson Sterns Washington & Mahody (counsel to the Prince Edward Island Union of Public Sector Employees "PEIUPSE") dated October 23, 2015 advising that PEIUPSE voluntarily recognizes UFCW as the bargaining agent on behalf of the bargaining unit of PEIUPSE; and
4. Bylaws of United Food and Commercial Workers Canada Union - Local No. 864, approved 1<sup>st</sup> day of May, 2008 by Joseph Hansen, International President, U.F.C.W.I.U.

## **Issues**

The sole issue to be decided by the Board is whether the Public Sector Employees Staff Union and the United Food and Commercial Workers, Local 864 are entitled to be merged.

## **Decision**

The provisions of Section 40 of the *Labour Act* state:

*Where a trade union claims that by reason of a merger or amalgamation or a transfer of jurisdiction it is the successor of a trade union that at the time of the merger, amalgamation or transfer of jurisdiction was the bargaining agent of a unit of employees of an employer and any question arises in respect of its right to act as the successor, the board, in any proceeding before it or on the application of any person or trade union affected, may by order declare that the successor has or has not, as the case may be, acquired the rights, privileges and duties under this Part of its predecessor.*


The provisions of Section 17(5) of the *Regulations* state:

*Where no reply has been filed and no statement of desire to make representations has been filed or any such reply or statement that has been filed does not state that a party desires a hearing before the Board, the Board may dispose of the application upon the material before it without further notice to any party or to the employees.*

The evidence before the Board indicates that the Applicant and the Respondents have agreed to merge the Public Sector Staff Union and the United Food and Commercial Workers, Local 864 and the Applicant has requested that, hereafter, the United Food and Commercial Workers, Local 864, be recognized as the successor bargaining agent.

Following a consideration of the Application and all supporting documentation filed with the Board, the Board has concluded that the Applicant, the United Food and Commercial Workers, Local 864, is entitled to be merged with the Public Sector Employees Staff Union. This Board declares that the United Food and Commercial Workers, Local 864, has acquired the rights, privileges and duties under this legislation of the Public Sector Employees Staff Union. The Board further concludes that the description of the bargaining unit is *“All employees of the Prince Edward Island Union of Public Sector Employees except the President and Office Manager.”*

  
Nancy Birt  
Chair

  
Raymond McBride  
Member

  
Judy Hughes  
Member

This Decision made by the Prince Edward Island Labour Relations Board on the 3<sup>rd</sup> day of February, 2016, and issued under the hand of its Chief Executive Officer on the 3<sup>rd</sup> day of February, 2016.

  
Shawn M. Shea  
Chief Executive Officer