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GOVERNMENT OF PRINCE EDWARD ISLAND
LABOUR RELATIONS BOARD

J. J. Revell, B. Comm., M.B.A.
Chairman
Wayne S. MacKinnon
Chief Executive Officer

DEPARTMENT OF LABOUR
P.O. BOX 2000,
CHARLOTTETOWN
PRINCE EDWARD ISLAND

IN THE MATTER OF:

APPLICATION OF LOCAL 1079A, CONSTRUCTION AND GENERAL LABORERS UNION	APPLICANT
- and -	
PREBILT STRUCTURES LIMITED	RESPONDENT
PREBILT EMPLOYEES ASSOCIATION	RESPONDENT

DECISION

This Application was filed with the Labour Relations Board on October 28, 1975 and processed in accordance with the Regulations of the Board. A hearing to consider the matter was held on December 17, 1975.

As a result of the hearing, the Board issued an interim finding dated January 6, 1976 (copy attached) and ordered that a representation vote be conducted.

The representation vote was conducted on the 16th day of January, 1976 and the result of that vote determined that the applicant trade union did not obtain the required majority of those employees eligible to vote.

At the request of the applicant trade union, a further hearing was held on February 10, 1976. At the hearing, counsel for the applicant trade union argued that the list of eligible voters did not include all employees who should have been allowed to vote. Counsel contended that all employees as of the date of application should have been given the opportunity to vote, including those who had left the company or other employment. Counsel also argued that Section 3, subsection (4) of the Regulations made it imperative that the Board give recognition to the membership cards that were filed with the application for certification, and that the results of any representation vote could not reduce the membership position of the applicant.

The Board is satisfied that the representation vote of January 16, 1976 was properly conducted and conducted within the powers of the Labour Relations Board. The Board is satisfied, further, that as a result of the vote the applicant does not have a majority position required by the Act in order for the Board to grant certification.

Consequently, the application for certification is dismissed.

This Decision was made by the Labour Relations Board on February 10, 1976, and is issued over the hand of its Chief Executive Officer.

Labour Relations Board Panel:
J.J. Revell, Chairman
Lloyd Weeks, Member
Robert Sockett, Member

Wayne S. MacKinnon
Chief Executive Officer



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UNION,

APPLICANT

-and-

PREBUILT STRUCTURES LIMITED,

RESPONDENT

INTERIM FINDING

This application was filed with the Labour Relations Board on October 28, 1975 and processed in accordance with the Regulations of the Board. A hearing to consider the matter was held on November 17, 1975.

At the hearing, extensive evidence was taken concerning the status of an organization known as the Prebuilt Employees Association. Counsel for the Applicant made preliminary objection on the grounds that the above named Association was not a trade union within the meaning of the Act and, therefore, the intervention of the Association and its presence at the hearing should not be allowed. Counsel for the Applicant also objected to the filing of an application for certification by the Association, such application having been filed on November 14, 1975.

Subsequent to the hearing, the Board has met on January 5, 1976 and has made the following determinations:

a) Based on significant irregularities in the organization, constitution and by-laws of the Prebuilt Employees Association, the Board is of the opinion that the Association is not a trade union within the meaning of the Act.

b) Notwithstanding the above, the Board decides that, in accordance with Section 22 of the Regulations, the Board shall offer an opportunity to the Association to be represented and to present evidence concerning the application for certification of Local 1079A.

c) The Board is satisfied that there is no evidence before the Board to indicate that the Respondent Employer has been involved in the organization of the Employees Association to a degree which would be contrary to the Act and which would impede the free choice of the employees as to their bargaining agent.

d) The Board has decided, under the provisions of Section 12, subsection 5 (b), that a representation vote to determine the wishes of the employees should be conducted forthwith.

The parties will be contacted by the Board to arrange procedure for the conduct of the vote.

FOR THE LABOUR RELATIONS BOARD:

Wayne S. Mackinnon,
Chief Executive Officer.

DATE: January 6, 1976.