



GOVERNMENT OF PRINCE EDWARD ISLAND
LABOUR RELATIONS BOARD

J. J. Revell, B. Comm., M.B.A.
Chairman

W. S. MacKinnon
Chief Executive Officer

DEPARTMENT OF LABOUR
P.O. BOX 2000
CHARLOTTETOWN
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DECISION

Provincial Collective Bargaining Committee

APPLICANT;

- and -

Addiction Foundation of Prince Edward Island

RESPONDENT;

This Application was filed on June 23, 1980, and processed in accordance with procedures established by the Board. The Applicant Committee, an organization associated with the Association of Nurses of P.E.I., is seeking certification for a unit comprised of all registered nurses employed at the Addiction Foundation of P.E.I. including nursing supervisors. Due to certain scheduling difficulties, the Hearing to consider the matter was deferred to August 22, 1980.

The Respondent filed a reply to the Application on July 15, and at the Hearing advised that the Addiction Foundation did not object to the Applicant being certified.

The P.E.I. Public Service Association, which holds bargaining rights for a unit of employees at the Foundation, but which does not include registered nurses, filed a letter of intervention on July 9 opposing the Application and presented verbal argument at the Hearing.

At the outset, the Board has made certain determinations with which the parties do not disagree. The Board is aware of the status of the Addiction Foundation as an agency of Her Majesty and of an Order of the Lieutenant-Governor-in-Council dated July 6, 1978, whereby Executive Council declared the Foundation to be an employer within the meaning of the Labour Act. The Board also recognizes the recent amendment to the Labour Act which removes the exclusion of registered nurses from the definition of "employee", thereby allowing registered nurses to seek bargaining rights through their authorized representative.

The essential issue, in the opinion of the Board, is related to the status of the Provincial Collective Bargaining Committee, its relationship to the Association of Nurses of P.E.I. and the extent to which the rights conferred to registered nurses by the Labour Act may be impeded by certain provisions of the Nurses Act and Regulations made pursuant to that Act.

The Public Service Association has argued that Section 12 of the Nurses Act, when read with Section 1 of the collective bargaining regulations made pursuant to that Act, allows the Applicant Committee to seek bargaining rights only where nurses are employed in a hospital as defined in the Hospitals Act and nurses employed in the P.E.I. School of Nursing. The Public Service Association argues that as the Addiction Foundation is not such a hospital, a point not in dispute, the Applicant Committee does not have the necessary statutory authority to extend its organizing and representation responsibilities to the Addiction Foundation.

The Applicant Committee claims that neither Section 12 of the Nurses Act nor the Regulations limits the scope of the Applicant Committee to represent registered nurses in the Province, but is designed to define and regulate the relationship between the Committee and those parties responsible for the operation of hospitals as defined by the Hospitals Act and the P.E.I. School of Nursing.

After consideration of these arguments and a review of the appropriate statutes the Board has decided as follows:

First, the Board finds that the Applicant Committee is a trade union within the meaning of the Labour Act. Secondly, the Board is of the opinion that the Nurses Act and Regulations made pursuant to that Act were not intended to regulate, nor do they impede the establishment of relationships between employers defined within the meaning of the Labour Act and the Provincial Collective Bargaining Committee as it represents registered nurses. Indeed, it is the opinion of the Board that the removal of the exclusion of registered nurses from the Labour Act can only be interpreted as having the intent of allowing the authorized representative or representatives of registered nurses to seek bargaining rights when properly authorized to do so in employment situations under the jurisdiction of the Labour Act. It is rather obvious to the Board that the Nurses Act and the Regulations made pursuant to that Act are designed solely to regulate bargaining relationships in hospitals, and not to limit the scope of the Applicant Committee as it seeks to obtain rights available under the provisions of the Labour Act. It seems logical then to conclude that the Labour Act is now intended to regulate bargaining relationships for nurses in employment situations other than hospitals, and that the provisions of that Act should be applied in this Application.

Consequently, the Board finds that the Provincial Collective Bargaining Committee is not impeded by the Nurses Act from making an application to represent registered nurses employed at the Addiction Foundation.


The Board does not have difficulty with describing a unit which would include all registered nurses employed at the Addiction Foundation, but has some reservations concerning the inclusion of nursing supervisors. The Board has decided to describe the appropriate bargaining unit to include nursing supervisors but excluding those exercising managerial functions. If the parties are unable to determine the extent to which managerial functions are performed by individual nursing supervisors the Board will entertain submissions and where necessary specifically include or exclude certain nursing supervisory positions.

The Board is of the opinion that the Applicant has the necessary majority and a Certification Order will be issued.

This Decision was made by the Labour Relations Board on September 9, 1980, and is issued over the hand of its Chief Executive Officer.

PANEL:

J. J. Revell, Chairman
Lloyd Weeks, Member
Glen Mitchell, Member


Wayne S. MacKinnon
CHIEF EXECUTIVE OFFICER