



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  
PRINCE EDWARD ISLAND  
C1A 7N8

UNFAIR LABOUR PRACTICE COMPLAINT

- between -

Retail, Wholesale Dairy Workers Union,  
Local 1515

COMPLAINANT;

- and -

Perfection Foods Limited

RESPONDENT;

DECISION AND ORDER  
OF THE LABOUR RELATIONS BOARD

Pursuant to the above complaint and pursuant to the Decision and Order of the Labour Relations Board dated August 27, 1985, in which the Board retained jurisdiction with regard to the implementation of the Order, the Board finds as follows:

- (1) At a Hearing of the Board, October 22, 1985, the Board heard submissions concerning progress made since the Board Order. The Board has also reviewed the report of the Mediator, Mr. Brian Bruce, dated October 20, 1985, as submitted to the Minister of Labour. The Mediator's Report when read with the submissions of the parties is such as to have the Board conclude that:
  - (a) The parties have agreed to all clauses which are to be included in a new collective agreement.
  - (b) The parties have reached substantial agreement on the terms of a Return to Work Agreement, with the exception of the effective dates of return to work for the striking employees.
  - (c) There remains a substantial difference in the positions of the parties as they relate to those dates, and there is little prospect that this difference can be resolved through negotiations.
- (2) The Board finds that the position of the Employer as it relates to the effective dates in the Return to Work Agreement proposed by the Employer on October 19, 1985, (appendix "A" of the Mediator's Report), and particularly in clauses 1, 2 and 8 of that proposal, is such as to make difficult, if not impossible, the implementation of paragraph 2 of the Board's Order of August 27, 1985.
- (3) The Board finds that the Employer's proposed Back to Work Agreement, does not provide for a return to work by all striking employees to their former classifications. Rather, it provides that in certain cases, employees will be returning to work in different classifications which may be vacated by replacement workers, and for which the returning employees may be required to undergo a training period. To this extent, the proposal substantially changes the status of the striking employees.

Further, the Board finds that the sequence of return to work as proposed by the Employer will result, for at least several months, in a failure to recognize the seniority provisions of the collective agreement, and as such does not achieve the result contemplated by the Board's Order.

- (4) The Board finds, following consideration of the submissions of the parties and after review of the appropriate authorities, that pursuant to Section 10(3) of the Act, the Board has the statutory jurisdiction necessary to set such dates as it deems appropriate to effect the return to work as was contemplated in paragraph 2 of the Board's Order.

Pursuant to Section 4(1) of the Act, the Board varies its Order of August 27, 1985, to provide, pursuant to Section 10(3) of the Act as follows:


- (1) The Employer is to propose, and the Union is to accept, as replacement for clauses 1, 2 and 8 of the proposed Back to Work Agreement (October 19, 1985) clauses which will provide for:
- (a) As soon as can be suitably arranged, but not later than December 1, 1985, a return to work of all striking employees who are available for work, in the positions held by such employees at the commencement of the strike.
- (b) Where positions referred to above are presently vacant due to lack of work, and as a result cannot be filled by December 1, 1985, they are to be offered on a "when available" basis in accordance with seniority provisions of the collective agreement. Clause 4 of the proposed Return to Work Agreement is to be altered to so provide.
- (2) The Board retains jurisdiction with regard to the implementation of the Order of August 27, 1985, as varied by Order of this date. Should the parties be unable to agree by November 15, 1985, to contractual terms which give effect to the above, they are to advise the Board accordingly.

If such becomes the case, the Board will convene a Hearing and following submissions from the parties, will determine the issues remaining in dispute, and will issue directions to the parties accordingly.

This Order is made by the Labour Relations Board on October 30, 1985, and is issued over the hand of the Chief Executive Officer. Receipt will be by personal service to counsel for the parties.

PANEL:

J. J. Revell, Chairman  
Harry Snow, Member  
Glen Mitchell, Member

  
Wayne S. MacKinnon  
CHIEF EXECUTIVE OFFICER