



**GOVERNMENT OF PRINCE EDWARD ISLAND  
LABOUR RELATIONS BOARD**

M. Lynn Murray, B.B.A., LL.B.  
Chairman

Roy J. Doucette  
Chief Executive Officer

DEPARTMENT OF LABOUR  
P.O. BOX 2000  
CHARLOTTETOWN  
PRINCE EDWARD ISLAND  
C1A 7N8

D E C I S I O N

**RE:** APPLICATION FOR CERTIFICATION - REQUEST FOR WITHDRAWAL  
**BETWEEN:** NATIONAL AUTOMOBILE, AEROSPACE AND AGRICULTURAL APPLICANT;  
IMPLEMENT WORKERS UNION OF CANADA (CAW-CANADA)  
**AND:** CAVENDISH FARMS RESPONDENT;  
**AND:** THE UNITED FOOD AND COMMERCIAL WORKERS UNION, INTERVENORS:  
LOCAL 1252 (IN TRUSTEESHIP) - AND -  
THE UNITED FOOD AND COMMERCIAL WORKERS  
INTERNATIONAL UNION

COUNSEL FOR APPLICANT: DAVID W. HOOLEY and KAREN CAMPBELL  
COUNSEL FOR RESPONDENT: UNREPRESENTED  
COUNSEL FOR INTERVENORS: EUGENE P. ROSSITER

**BACKGROUND:**

1. Board Application No. 87-005 is an Application for Certification filed by the Applicant (hereinafter referred to as CAW) on June 11, 1987. At the time of filing the Application, CAW also filed membership cards and receipts, as well as a list of employees who wished CAW to represent them.
2. The Chief Executive Officer of the Board, as required by the Regulations made pursuant to the Labour Act, R.S.P.E.I. 1974, Cap. L-1, set a terminal date with that date being December 24, 1987. On December 24, 1987, the Board received an Intervention from the United Food and Commercial Workers Union, Local 1252, (In Trusteeship) (Hereinafter referred to as UFCW Local 1252). On December 23, 1987, the Board received an Intervention from the United Food and Commercial Workers International Union (hereinafter referred to as UFCW). A Reply was filed with the Board on December 21, 1987.
3. A previous panel of the Board made certain orders dealing with this Application. UFCW Local 1252 and UFCW applied for judicial review and on February 22, 1988, the Honourable Mr. Chief Justice Kenneth R. MacDonald, Chief Justice of the Prince Edward Island Supreme Court Trial Division, ordered that a new panel be convened to deal with this matter. This decision was upheld by the Prince Edward Island Supreme Court, Appeal Division, on May 24, 1988, and a direction was given to the then Chairman of the Board to strike a new panel to deal with all outstanding matters involving CAW and UFCW. The present panel of the Board was then struck to deal with this Application.

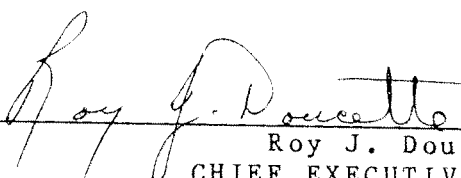
4. By correspondence dated June 3, 1988, CAW sought leave of the Board to withdraw this Application without imposition of a time bar and file a new Application in its place. After conducting a hearing, the Board, by decision dated October 11, 1988, declined to permit the withdrawal and reasons are contained in its written decision which need not be reiterated here. It is also interesting to note, that during the course of the hearing dealing with the withdrawal, the Board found as a fact that one of the employees, whose membership card was submitted with this Application, had not paid the \$2.00 as required by the Labour Act and Regulations.

5. The hearing to deal with this Certification Application was scheduled to commence on February 17, 1989. By correspondence dated February 13, 1989, CAW sought leave of the Board to withdraw this Application and after hearing representations from the parties, the Board took the matter under advisement.

6. It is the unanimous decision of the Board that it does not have the jurisdiction to deal with the request for a withdrawal. Regulation 3(2)(c) and 3(2)(d) require that the Applicant Union's Constitution and a list of its officers shall be filed concurrently with the application. This was not done and therefore the Board concludes that the failure to file these documents on June 11, 1987, the date on which the application was filed, results in the Board having no jurisdiction to deal with the application. This decision is consistent with the decision of the Board in National Automobile, Aerospace and Agriculture Implement Workers' Union of Canada (CAW - CANADA) and Garden Province Meats (1985) Inc., et al. (Board application No. 87-003, January 31, 1989) and with the decision of COWAN, C.J.T.D. of the Nova Scotia Supreme Court in Hawker Siddeley Canada Limited v. Labour Relations Board (Nova Scotia) (1975) 15 NSR (2d) 613 at page 621, paragraph 18.

7. For the foregoing reasons, the Board is of the unanimous opinion that it does not have jurisdiction to hear or otherwise deal with this Application. As this disposes of the matter currently before the Board, there is no need for the Board to comment on any other points addressed by the parties.

This Decision made by the Labour Relations Board and issued under the hand of its Chief Executive Officer this 1st day of March, 1989.

  
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Roy J. Doucette  
CHIEF EXECUTIVE OFFICER

PANEL:

M. Lynn Murray, Chairman  
Gerry Doyle, Member  
Elizabeth MacFadyen, Member