



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

DECISION

RE: APPLICATION FOR CERTIFICATION - WITHDRAWAL
BETWEEN: NATIONAL AUTOMOBILE, AEROSPACE AND AGRUCULTURAL
IMPLEMENT WORKERS' UNION OF CANADA (CAW-CANADA) APPLICANT;
AND: C.E.G.F. CANADA LTD. RESPONDENT.

COUNSEL FOR CAW-CANADA KAREN CAMPBELL
COUNSEL FOR RESPONDENT UNREPRESENTED
COUNSEL FOR UFCW EUGENE P. ROSSITER

1. Application No. 87-007 is an Application for Certification filed by the Applicant(hereinafter referred to as CAW) on June 11, 1987. The documentation required by section 3(2) of the Regulations made pursuant to the Labour Act R.S.P.E.I. 1974, Cap. L-1 accompanied the Application for Certification.

2. The Chief Executive Officer set February 10, 1989 as the Terminal Date for this Application. On February 3, 1989, the Board received a Reply to the Application for Certification from the employer as well as a copy of a collective Bargaining Agreement between C.E.G.F. Canada Ltd. and the United Food and Commercial Workers, Local 1252 for the period April 4, 1987 to December 31, 1991. On the same date, the Board received a letter which states as follows:

February 3, 1989

Labour Relations Board of P.E.I.
P.O. Box 2000
Charlottetown, P.E.I.
C1A 7N8

Attention Roy J. Doucette
Chief Executive Officer

We the undersigned now wish to withdraw our membership cards from the C.A.W.

Winston Jewell Jerry Thompson Garth Neill
Box 39, Riverbend Colonies 190 Kensington Road Winsloe RR 2
Winsloe RR 2 Charlottetown, P.E.I. Prince Edward Island
COA 2H0 C1A 7S3 COA 2H0

(sgd) Winston Jewell (sgd) Jerry Thompson (sgd) Garth Neill

3. On February 14, 1989, the Board received correspondence on behalf of CAW-Canada wherein it requested leave to withdraw the Application in question. On February 17, 1989 this request was formally made to the Board. At that time, Counsel for United Food & Commercial Workers, Local 1252 (In Trusteeship) (hereinafter referred to as UFCW) sought to make representations on this issue. Counsel for CAW-Canada objected as UFCW had not filed an Intervention within the time required. Pursuant to Subsection 24(3) of the Regulations, the Board granted UFCW an opportunity to present submissions, representations and evidence on this issue.

4. Brief submissions were made by both UFCW and CAW-Canada. UFCW argued the Board should dismiss the Application and impose a time bar. CAW-Canada submitted the application to withdraw should be granted.

5. CAW-Canada adduced no reason why it wished to withdraw the Application. However, it did concede that the letter from the employees was clear that the employees did not want CAW-Canada to represent them. In light of this admission, the Board likens the request for withdrawal in this case to that which is asked for in situations when the applicant feels it may lose a vote or majority support. Accordingly, the Board feels it would be inappropriate to simply grant withdrawal in these circumstances.

6. CAW-Canada has acknowledged that the unit in question is comprised of three employees, and all three have indicated their wish to withdraw their membership cards from the CAW. Therefore, the Board can only conclude that CAW-Canada lacks majority support at the unit in question.

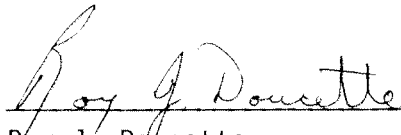
7. Section 12 of the Labour Act deals with the requirements the Board must satisfy itself of before it decides to grant a certification order. One of those requirements is that there must be a majority support for the union. The Board file and the admissions of counsel for CAW-Canada clearly indicate that majority support is not present in this case.

8. Subsection 12(7) of the Labour Act states:

(7) If the Board is not satisfied that the applicant trade union is entitled to be certified under this section, it shall dismiss the application and may designate the length of time that must elapse before the same applicant may make a new application.

Because majority support is lacking, the Board declines to grant leave to withdraw the Application, and the Board dismisses the application involving C.E.G.F. Canada Ltd. The Board is also exercising the discretion bestowed upon it by Subsection 12(7) of the Labour Act to designate a period of time that must elapse before the Applicant, CAW-Canada, can make a new application involving the employees at C.E.G.F. Canada Ltd. That period of time will be six months from the date of this Order.

THIS DECISION made by the Labour Relations Board and issued under the hand of its Chief Executive Officer this 1st day of March A.D. 1989.



Roy J. Doucette
Chief Executive Officer

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