



**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

UNFAIR LABOUR PRACTICE COMPLAINT - LAYOFFS

BETWEEN:

International Brotherhood of Electrical Workers  
Local 1432

COMPLAINANT;

AND: Gorman Controls Ltd.

RESPONDENT.

Counsel for Applicant - Ray McBride representing the Union  
Counsel for the Respondent - John K. Mitchell

1. Application numbered as 88-020 involves an Unfair Labour Practice Complaint alleging that the Respondent (hereinafter referred to as Gorman) had laid off employees contrary to subsection 9(c) of the Labour Act R.S.P.E.I. 1974, Cap. L-1.
2. On November 1, 1988, Gorman through its solicitor filed a response pursuant to Subsection 19(3) of the Labour Act, supra denying any wrongdoing and specifically relying on Subsection 8(4) of the Labour Act, supra.
3. The Chief Executive Officer of the Board investigated the Complaint and filed his report with the Board as is required by statute. A Hearing was then convened on November 23, 1988 to deal with the Unfair Labour Practice Complaint.
4. Pursuant to subsection 10(5) of the Labour Act, the onus lies with the employer to demonstrate to the Board that the layoff or any alleged violation of Section 9 of the Labour Act was for good and sufficient cause. That subsection states as follows:  

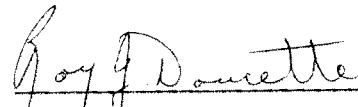
"10(5) Where any such complaint arises out of the suspension, transfer, refusal to transfer, layoff, discharge or change of status of an employee or the refusal to employ or rehire any person, the burden of proof that the suspension, transfer, refusal to transfer, layoff, discharge, change of status, or refusal to employ or rehire was for good and sufficient reason and not in violation of section 9, is upon the person charged."
5. After reviewing the evidence adduced by both parties at the hearing, the Board is satisfied that Gorman did in fact lay off the three employees named in the Unfair Labour Practice Complaint; namely, Roger MacLure, Kevin McKeighan and Marvin W. Stavert, during the period of time an Application for Certification (Application No. 88-010) was pending before the Board. However, the Board is also satisfied that the layoffs were in no way related to the fact that any or all of the employees so named had applied to become a member of a trade union.

6. The Board heard evidence from all three employees named in the Complaint, and all three employees agreed that there was a shortage of work; although one did believe he might have had a job for a longer period of time, there was no evidence led as to where the employee had obtained this view.

7. The Board finds that Gorman has rebutted the onus placed on it by subsection 10(5) of the Labour Act and in fact finds that the employees were laid off due to a shortage of work and thus finds that the employer had cause to lay off the employees.

8. For the foregoing reasons, the Board unanimously finds there was no Unfair Labour Practice committed by Gorman.

This Decision made by the Labour Relations Board this second day of December, 1988 and issued under the hand of its Chief Executive Officer.

  
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Roy J. Doucette  
Chief Executive Officer

PANEL:

M. Lynn Murray, Chairman  
Ted Crockett, Member  
Gerry Doyle, Member