



**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

IN THE MATTER OF: AN APPLICATION FOR CERTIFICATION  
BETWEEN: CONSTRUCTION AND GENERAL LABOURERS' UNION LOCAL 1079A APPLICANT;  
AND: MARRIOTT CORPORATION CANADIAN DIVISION RESPONDENT

COUNSEL FOR THE APPLICANT: J. GORDON MacKAY

COUNSEL FOR THE RESPONDENT: DAVID H. JENKINS

D E C I S I O N

The Labour Relations Board has heard evidence and arguments regarding the Application for Certification filed by Construction and General Labourers' Union Local 1079A relative to employees of Marriott Corporation performing duties on the campus of The University of Prince Edward Island.

With the consent of both parties, evidence and argument was heard firstly as to whether the Applicant union was a properly constituted trade union, and whether it had the jurisdiction to organize classes of employees like those in question. These issues were dealt with in a "partial decision" reached by the Board (on these questions only), a copy of which was given to each party (and its counsel) prior to the continuance of the hearing in this matter. A copy of this decision is annexed hereto as Annex A and forms part of this decision.

The Board also heard evidence and arguments regarding the appropriateness of the bargaining unit and finds that the proper description for the bargaining unit in this case is as follows:

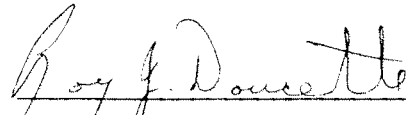
"All food service employees of Marriott Corporation (Canadian Division) who are employed by the employer in excess of 24 hours per week including cooks, utility workers and general cafeteria employees (whose duties include, but are not restricted to, line serving, dishwashing, pot washing, salad bar preparation, cleaning, cashier duties, general labourer duties, etc.) in connection with the employer's food service operations on the campus of the University of Prince Edward Island in Charlottetown, Province of Prince Edward Island; but excluding all employees who perform managerial, confidential, office or clerical functions and those excluded by the Labour Act."

Upon determining the appropriate bargaining unit, the Board then examined the membership evidence of the Applicant and finds that the union has fulfilled the requirements of section 4 of the Regulations.

Therefore the Board orders that a Certification Order be issued in this matter, and that a copy of said order and this decision be personally served upon all parties and counsel.

The Respondent Company requested that the Board, pursuant to section 4 (1), reconsider its partial decision in this matter (Annex A). The Board has considered said decision and confirms the decision.

THIS DECISION Made by the Labour Relations Board on January 17, 1989  
and issued over the hand of its Chief Executive Officer.

A handwritten signature in cursive script, reading "Roy J. Doucette", written over a horizontal line.

Roy J. Doucette  
Chief Executive Officer

PANEL:

Aidan Sheridan, Vice-Chairman  
Ray McBride, Member  
James McTague, Member



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BETWEEN: CONSTRUCTION & GENERAL LABOURERS' UNION LOCAL 1079A APPLICANT;  
AND: MARRIOTT CORPORATION CANADIAN DIVISION RESPONDENT  
COUNSEL FOR THE APPLICANT: J. GORDON MacKAY  
COUNSEL FOR THE RESPONDENT: DAVID H. JENKINS

DECISION

With the consent of both counsel, the Board has agreed to hear evidence and arguments regarding that aspect of the Application for Certification that relates as to whether the trade union is properly constituted, has filed a proper application, or has the requisite jurisdiction to organize the employees in question in this matter.

The Respondent company has argued several matters suggesting that the Applicant has not proved required portions of its case in this matter. These matters will be dealt with as follows:

1. The Respondent alleges that the Applicant has not complied with Section 3 (2) (d) of the Labour Act Regulations in that the Applicant has not filed a list of its officers with the Board. The Board notes that the Applicant has filed, concurrently with its Application for Certification, a document entitled "Exhibit 'B' to Form No. 1", which purports to list the duly elected officers of Construction and General Labourers' Union Local 1079A. No evidence has been presented to the Board questioning the validity or accuracy of this information; therefore, the Board accepts this evidence and finds that the Applicant has complied with the provisions of Section 3(2)(d) of the Regulations.
2. The Respondent alleges that the Applicant has not complied with Section 3 (2) (c) of the Regulations in that the Applicant did not file, concurrently with its Application for Certification, a copy of its constitution, rules and by-laws, or other instruments or documents containing a full and complete statement of its objects and purposes. The Board has reviewed the documentation on file and notes the evidence presented on the Applicant's behalf. The Board notes that the Charter establishing Local 1079A (Applicant's Exhibit 1) states that Local 1079A is bound by the Constitution of the Labourers' International Union of North America. The evidence of John Rose indicated that Local 1079A adopted, as its constitution the Uniform Local Union Constitution as found within the L.I.U. of N.A. Constitution booklet, a copy of which was filed with this Board concurrently with the Application for Certification. This evidence was not challenged by the Respondent, and the Respondent has offered no evidence to contradict this evidence. The Board accepts the evidence as presented to it and accepts that the L.I.U. of N.A. Constitution Booklet filed by the Applicant(which contains a

copy of the Uniform Local Union Constitution) is sufficient to satisfy the requirements of Section 3 (2) (c) of the Regulations.

3. The Respondent also suggested that Mr. John Rose does not have the requisite authority to sign the Application for Certification in this matter, as the provisions of section 2 (2) (d) of the Regulations have not been fulfilled. The Board has found that Mr. Rose does have the requisite authority. The Board recognizes Applicant's Exhibit 2, which is a copy of a resolution of Local 1079A which gives the Local's Business Manager (George McInnis at that time) or his successor authority to sign all legal documents pertaining to matters placed before the Labour Relations Board of Prince Edward Island on behalf of the Local. Obviously, John Rose is not named in this resolution, but the evidence establishes that he is a successor to Mr. George McInnis as Business Manager (or as otherwise described) of Local 1079A. This evidence was not challenged by the Respondent, nor was contradictory evidence forwarded; thus the Board accepts that Mr. John Rose is now acting as Business Manager of Local 1079A and has the authority to sign (on behalf of the Local) all legal documents relating to Board matters, which certainly would include an Application for Certification.

The Respondent asserts that a new or fresh resolution is required for each Application; however, the Board cannot agree with this position. The Labour Act does not call for a specific resolution for each application, but rather requires merely a resolution authorizing a person to complete the Application. Furthermore, the Board does not agree with the Respondent's assertion that a copy of the resolution giving the deponent signing authority must be filed with the Board concurrently with the Application for Certification. Such a requirement is not specified within the legislation, and the Board finds that such a resolution need not be filed with the Board concurrently with the Application for Certification. It is sufficient that this point be proved, if necessary, by the Applicant during the hearing of the certification application.

4. The Respondent suggested that the Applicant lacks the jurisdiction to organize the employees in question in this Certification Application. In light of this assertion, the Board reviewed the Constitution booklet filed by the Applicant with the Certification Application. Article II section 2(b) of this Constitution states that the L.I.U. of N.A. has the power to issue charters to local unions and to define the powers as well as the craft and territorial jurisdictions of the local union.

The evidence shows that a Charter was granted to Local 1079A effective August 7, 1973, and this Charter has been filed with the Board as Applicant's Exhibit 2. The evidence further shows that Local 1079A has adopted, as its constitution, the Uniform Local Union Constitution, a copy of which was filed with the Board.

Article I of the Uniform Constitution states that the local union is

"a unit in order to accomplish the goal of gathering under one banner all those that work at the craft and calling of said International Union, in accordance with the craft and territorial jurisdiction allotted to each Local Union by its charter . . . "

The Charter for Local 1079A gives the Local territorial jurisdiction for Prince Edward Island and craft jurisdiction as follows:

"Construction and General Labourers and General Workers in Construction, Industrial and Commercial."

The Board finds that the jurisdiction provisions of the L.I.U. of N.A. as stated in Article III of its Constitution (as filed) allowed the L.I.U. of N.A. to give such craft jurisdiction to Local 1079A.

The Board finds that the organization of the employees in question in this matter falls within the craft jurisdiction of Local 1079A. This jurisdiction includes general workers in the commercial industry. Evidence has been presented which shows that the Respondent company operates, to some degree, a commercial venture within the territorial jurisdiction. Thus it appears that the employees

in this case, being general workers of a company engaged in commercial activity, would fall within the classification of employees to which the Applicant (Local 1079A) has jurisdiction to organize.

Thus the Board rules that the trade union in this Application has the jurisdiction to attempt to organize the workers in question in this matter.

The Board rules that, to this point, the Application is proper; and the Board further rules that this Application should proceed in its normal course.