



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

RE: APPLICATION FOR RECONSIDERATION OF APPLICATION NO. 87-006

BETWEEN:

NATIONAL AUTOMOBILE, AEROSPACE AND AGRICULTURAL IMPLEMENT WORKERS
UNION OF CANADA (CAW-CANADA)

APPLICANT

AND:

CENTRAL FARMERS' CO-OPERATIVE ASSOCIATION LTD.
DOING BUSINESS UNDER THE FIRM NAME AND STYLE OF ISLAND FOOD CENTRES

RESPONDENT

AND:

THE UNITED FOOD AND COMMERCIAL WORKERS INTERNATIONAL UNION

INTERVENOR

D E C I S I O N

Counsel for Applicant - Karen Campbell
Counsel for Intervenor - Eugene P. Rossiter

1. Board Application No. 89-020 is an Application to the Board to reconsider its previous decision rendered March 1, 1989 involving the above noted parties. The Applicant did not request an opportunity to be heard and thus no hearing was held.
2. In its initial decision of March 1, 1989, the Board determined it had no jurisdiction to deal with the matter as the requirements of Subsection 3(2) of the Regulations were not complied with.
3. The Board has reviewed the written representations of the Applicant received April 10, 1989 and has unanimously decided that it will not reconsider its decision of March 1, 1989.
4. The Board is of the firm view that Sections 2 and 3 of the Regulations must be complied with for it to have jurisdiction to deal with a matter. This position is supported by a recent decision of the Honourable Mr. Justice C.R. McQuaid in Marriott Corporation (Canadian Division) versus Construction and General Labourers Union Local 1079A, and Labour Relations Board (Prince Edward Island)(GSC-8522, April 12, 1989 where he stated at Page 3:


"Sections 2 and 3, in particular, of the regulations appear mandatory. As they relate to applications for certification, they are required to be complied with in every detail. Unless they are so complied with, the documents deposited with the Board do not constitute an application within the meaning of the Act, and, consequently, the Board would have no jurisdiction to enter upon a hearing."

5. The Board has stated previously, and agrees that filing requirements enumerated in Sections 2 and 3 of the Regulations are mandatory and must be complied with for the Board to acquire jurisdiction. The fact they were not means the Board was without jurisdiction to deal with the matter.

6. The Applicant also requested the Board to reconsider its ruling of March 1, 1989 where the Board held that Subsection 25(2) of the Regulations could not be used to enlarge the time for the Applicant to file the appropriate documentation. The Applicant has not advanced any legal arguments that would lead the Board to conclude it erred in its original decision.

7. For the foregoing reasons, the Board has unanimously determined this is not a case for reconsideration; thus, the Board will not reconsider its previous decision rendered March 1, 1989.

THIS DECISION made by the Labour Relations Board and issued under the hand of its Chief Executive Officer on April 27 AD 1989.



Roy J. Doucette
Chief Executive Officer

PANEL:

M. Lynn Murray, Chairman
Gerald Doyle
Elizabeth MacFadyen