



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: UNFAIR LABOUR PRACTICE COMPLAINT --
ABRIDGEMENT OF TIME; STRIKE**

BETWEEN: THE NATIONAL ELEVATOR AND ESCALATOR ASSOCIATION

COMPLAINANT;

**AND: THE INTERNATIONAL UNION OF ELEVATOR CONSTRUCTORS;
THE INTERNATIONAL UNION OF ELEVATOR CONSTRUCTORS,
LOCAL 125; TOM ROWELL: DAVID WOLFE**

RESPONDENTS.

DECISION AND ORDER

COUNSEL FOR THE APPLICANT:

EUGENE P. ROSSITER

BACKGROUND:

1. Board Application No. 89-034 is an unfair Labour Practice Complaint dated September 7, 1989 and filed with the Labour Relations Board on the same date alleging a violation by the Respondents of S.9 (2) (d) of the Labour Act, namely calling, authorizing, counseling, procuring, supporting, encouraging or engaging in a strike not permitted by the Labour Act.

2. The Complainant made application to the Board pursuant to S.25 (3) of the Labour Act Regulations to abridge the time periods prescribed in S.19 (3) of the Labour Act Regulations.

3. The Board heard submissions on the part of the Complainant and satisfied itself that it would be in the public interest to abridge the time period. Thus the 7 day time period prescribed in S.19 (3) of the Labour Act Regulations for the Chief Executive Officer to do his investigation was abridged to September 8, 1989 at 11:30 a.m.

4. The Chief Executive Officer completed his inquiry in regard to the individual Respondents, namely Tom Rowell and David Wolfe. The Chief Executive Officer has indicated to the Board the results of his inquiry and that he has been unable to effect a settlement. The Board is further satisfied that the only settlement of this issue will be an Order of the Board for those employees to return to work.

5. However, the Chief Executive Officer had been unable to contact either of the Respondents namely, The International Union of Elevator Constructors or The International Union of Elevator Constructors, Local 125 by September 8, 1989 at 11:30 a.m. Thus the Board will not deal with the complaint in regard to the Respondents mentioned in this paragraph.

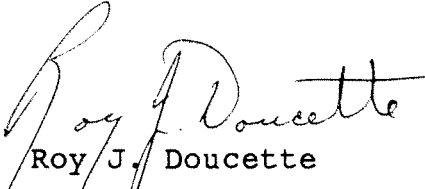
6. The Board is satisfied that the Individual Respondents Tom Rowell and David Wolfe are on strike in Prince Edward Island and that our legislation has not been complied with. Specifically Section 40 of the Labour Act has been violated. Thus the Board finds Tom Rowell and David Wolfe guilty of an unfair labour practice complaint.

7. The Board has broad powers by virtue of S.10 (3) of the Labour Act if it finds that an unfair labour practice has been committed. In accordance with those powers, the Board Orders that Tom Rowell and David Wolfe immediately return to work and that they immediately cease further violations of the Labour Act and specifically S.9 (2) (d) thereof.

8. The Board further orders that Tom Rowell and David Wolfe appear before the Labour Relations Board at 31 Gordon Drive, Sherwood, on Thursday September 14, 1989 at the hour of 4:00 o'clock in the afternoon to show cause why this order should not be continued.

9. In accordance with 10 (4) of the Labour Act, the Board orders and directs that this Order shall be served personally on the individual Respondents Tom Rowell and David Wolfe.

This Decision and Order of the Labour Relations Board made this 8th day of September AD 1989 and issued under the hand of its Chief Executive Officer.


Roy J. Doucette
Chief Executive Officer

PANEL:

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