



**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: Review of Certification Order Issued April 19, 1990 - Section 54 of the Labour Act

BETWEEN:

**UNITED BROTHERHOOD OF CARPENTERS AND JOINERS
OF AMERICA, LOCAL 1338**

APPLICANT

AND:

CONSTRUCTION & ENGINEERING SERVICES LTD.

RESPONDENT

BACKGROUND:

1. On April 12, 1990 the Applicant applied to the Labour Relations Board (hereinafter referred to as the "Board") pursuant to Section 53 (now Section 54) of the Labour Act to be certified as the bargaining agent for a group of employees employed by the Respondent.

2. Together with Form 1, the Applicant filed a list of the duly elected officers of the Applicant; a list of employees who wished to be represented by the Applicant; minutes of the meeting of Local 1338 held May, 1985; a copy of an accreditation order issued by the Board between the Construction Association of Prince Edward Island and United Brotherhood of Carpenters and Joiners of America, Local 1338, et. al dated October 8, 1975; a copy of the Charter of the Applicant; a copy of minutes of a meeting of the Applicant held May 21, 1986; evidence indicating the employees in question had paid dues within three months preceeding the date of the application; and a copy of the Constitution and Laws of the United Brotherhood of Carpenters and Joiners of America.

3. A panel of the Labour Relations Board comprised of Aidan Sheridan as Vice-Chair, Ted Crockett as employee representative and James E. McTague as employer representative, met on April 19, 1990 to consider the application for certification. After considering the matter the Board stated in its decision rendered April 19, 1990:

"AND WHEREAS, following investigation and consideration of the Application for Certification pursuant to Section 53 of the Labour Act, the Board has found the Applicant to be a trade union within the meaning of the Prince Edward Island Labour Act and has determined the unit described hereunder to be appropriate for collective bargaining and has satisfied itself that a majority of employees wished the Applicant trade union to be certified as bargaining agent on their behalf.

NOW, THEREFORE, it is hereby ordered by the Prince Edward Island Labour Relations Board that the United Brotherhood of Carpenters and Joiners Local 1338 be, and it is hereby certified to be the bargaining agent of a unit of employees of Construction & Engineering Services Ltd. comprising all employees employed by Construction & Engineering Services Ltd. in the Province of Prince Edward Island engaged in the carpentry trade including journeymen carpenters, apprentice carpenters and carpenters' helpers; but excluding foremen and those above the rank of foremen."

4. The Chief Executive Officer of the Board on April 19, 1990 gave notice of the granting of the certification order to the Applicant and the Respondent.

5. Pursuant to Section 54(6) of the Labour Act, the Respondent may request the Board to reconsider its decision. Section 54(6) of the Labour Act states:

"The employer named in an order issued under subsection (2) may within ten days of the date of issue apply to the board for a review of the order, but the application shall not alter the rights or obligations of the parties arising from the order."

By correspondence addressed to the Board dated April 26, 1990 and received by the Board on April 27, 1990, the Respondent requested the Board review the Certification Order issued. In light of the request of the Respondent employer, the Board convened a hearing to be held June 13, 1990 and gave notice to the Applicant and Respondent.

6. This hearing scheduled did not occur and as a result, a new hearing was convened for February 6, 1991 and appropriate notice was given to the Applicant and Respondent and both appeared at the hearing.

7. At the hearing on February 6, 1991, the position of the Respondent is basically that it specializes in project management and does not act as a general contractor in very many cases. This particular instance involved the Ross, Hooley building on Great George Street, and the Respondent indicated it was fulfilling the express wish of the partners of Ross, Hooley that unionized labours and carpenters be used on the job site. The Respondent further indicated that if the Certification Order was allowed to stand, it would have to change its business and might have to do some restructuring in terms of how the company could continue to function. The Respondent also indicated that the unit was not appropriate for collective bargaining.

8. Mr. Louis Bradley, appearing on behalf of the Applicant, indicated that the application was proper and the Board had been correct when it granted the initial Certification Order on April 19, 1990.

9. As mentioned previously, the application was made pursuant to Section 54. Section 54(2) of the Labour Act states as follows:

"If the board is satisfied that the unit applied for is appropriate for collective bargaining and that a majority of the employees in the unit wish the applicant trade union to be certified as bargaining agent for such employees, the board shall forthwith and without holding a hearing, issue a certification order, that, except as provided in this section, shall have the same effect as an order under section 13."

The Board when it issued the Order on April 19, 1990 was satisfied that the provisions of the Labour Act and specifically Section 54(2) had been adhered to.


10. The Board has conducted a review of the application issued as serial number 06-90 in Board Application No. 90-006. The Board is satisfied that the Applicant is a trade union, that the unit applied for is appropriate for collective bargaining, and that a majority of the employees in the unit wished the Applicant to be certified as bargaining agents for those employees.

11. While in this particular case, the employees did not specifically request that the Respondent be certified, by virtue of subsection 3(4) of the Labour Act Regulations, a person is deemed by the Board to wish the applicant trade union to be certified as bargaining agent if at the date of application he was a member in good standing of the applicant trade union and had paid at least \$2.00 in union dues within three months preceeding the date on which the application was filed. The Board is satisfied that the employees were members of the Applicant at the date of Application and that the employees had paid the required amount in dues within three months preceeding.

12. On a final note, while the Board understands the position that the Respondent may find itself in, pursuant to the legislation in place, the Applicant has satisfied the Board of the prerequisite necessary to have a Certification Order issue.

13. Having stated the foregoing, the Board is of the unanimous opinion that its decision issued April 19, 1990 was correct and pursuant to subsection 54(7) of the Labour Act, the Board hereby confirms the Order issued April 19, 1990.

This decision of the Labour Relations Board was made this 19 day of February, A. D. 1991 and issued under the hand of its Chief Executive Officer.



ROY J. DOUCETTE
CHIEF EXECUTIVE OFFICER

PANEL:

M. Lynn Murray, Chair
Judy Goodwin
James E. McTague