



**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 THE APPLICATION FOR RECONSIDERATION OF CERTIFICATION**

**BETWEEN: NATIONAL AUTOMOBILE, AEROSPACE AND AGRICULTURAL  
IMPLEMENT WORKERS UNION OF CANADA (CAW-CANADA) APPLICANT**

**AND: ADVANCED MEDICAL TECHNOLOGIES,  
A DIVISION OF TUBE-FAB LTD. RESPONDENT**

**D E C I S I O N**

This Application for reconsideration was filed by Tube-Fab Ltd. on September 10, 1990, in relation to Board Certification Order No. 13-90, in which the Board certified a unit of employees of Advanced Medical Technologies. A hearing was held on November 26, 1990.

1. Tube-Fab Ltd. claims that the respondent employer named by the Applicant union in the Application for Certification, Advanced Medical Technologies (1988) Inc., has no employees and therefore the Board had no jurisdiction to proceed and subsequently issue Certification Order 13-90. Tube-Fab Ltd. argues that the union had an obligation to investigate and to find out the proper name, and by failing to do so, had abandoned its right to certification. Margaret Burns, the employer's payroll clerk, gave evidence that the payroll records and related documents were in the name of "Advanced Medical Technologies, a division of Tube-Fab Ltd."

In the employer's Reply to the Application for Certification, Mr. John Geschke, General Manager, had named the respondent employer to be Advanced Medical Technologies, and it was based on this information, which the Board had no reason to question, that Advanced Medical Technologies was named as the employer in the Certification Order. The Board is satisfied that the union used the name with which it was most familiar and which it believed to be the name of the employer. The Board is satisfied that it had jurisdiction to proceed with the Application for Certification, and by naming the employer to be Advanced Medical Technologies, the Board acted in good faith on information provided by the employer.

Evidence provided at the reconsideration hearing makes it clear that the employer is "Advanced Medical Technologies, a division of Tube-Fab Ltd.", and there is agreement by all parties to that fact. Accordingly, by the provisions of Section 4, subsection 1 of the Act, the Board will vary Certification Order 13-90 to reflect that name.

2. Tube-Fab Ltd. states that the Board, in granting the certification order, took into consideration certain circumstances contained in a letter dated August 21, sent by CAW-Canada to the Board. That letter was not considered by the Board and had no bearing whatever on the decision of the Board.

3. Tube-Fab Ltd. claims that the Board, by certifying the applicant union without a hearing or a vote, rejected petition evidence submitted by certain employees. These petitions, filed on the employer's letterhead with clear employer involvement, were rejected in accordance with a long standing policy of the Board. Simply stated, that policy requires employee interventions to be submitted by the employees free of the involvement of the employer, including the preparation, dissemination or circulation of such interventions. This is a policy which is consistent with that of Labour Relations Boards in all Canadian jurisdictions.

At the reconsideration hearing, Mr. Don Martin, an employee, gave evidence concerning the preparation and circulation of the petitions. The Board has considered that evidence and the argument of Tube-Fab Ltd.'s counsel on this point and concludes that its original decision concerning the petitions was correct, and the Board rejects its claim in this regard.

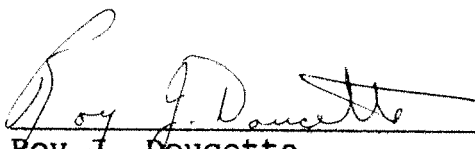
4. Tube-Fab Ltd. claims that the members did not have a reasonable period of time to respond to the Notice of Application. The Board did not receive a request from employees for an extension of time; furthermore, the petitions referred to in (3) above were filed within the time period established by the Board for interventions. The Board, therefore, rejects this argument.

5. Tube-Fab Ltd. requested that evidence be given by employees which would relate to the circumstances surrounding the union organization effort. This evidence would apparently include promises made by the union concerning the representation vote and other similar matters. The Board declined to hear such evidence, ruling that the employees had ample opportunity to bring this evidence to the Board prior to the terminal date of the Application for Certification, or by requesting a hearing.

6. Tube-Fab Ltd. alleges that one of the employees, who had filed a membership card, requested to cancel that card and received no reply from the union. The Board is of the opinion that this would be a matter which would be properly brought to the Board by the employee involved, prior to the terminal date.

The Board will vary Certification Order No. 13-90 to name the employer as "Advanced Medical Technologies, a Division of Tube-Fab Ltd." The Board, for the above reasons, will allow the remainder of the Order to stand as originally issued.

THIS DECISION made by the Labour Relations Board on December 7, 1990 and issued under the hand of its Chief Executive Officer.

  
\_\_\_\_\_  
Roy J. Doucette  
Chief Executive Officer

PANEL

J.J. Revell, Vice-Chairman  
Ray McBride, Member  
Jean-Marc Gallant, Member