



**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  
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**IN THE MATTER OF**

**APPLICATION FOR REVOCATION OF CERTIFICATION**

**BETWEEN:**

**MEMBERS OF INTERNATIONAL UNION OF  
OPERATING ENGINEERS LOCAL 902**

**APPLICANT**

**AND:**

**INTERNATIONAL UNION OF OPERATING ENGINEERS  
LOCAL 902**

**RESPONDENT**

**DECISION**

This matter was initiated by way of an application received by this Board on the 5th day of September, 1990. This matter was reviewed initially on October 3, 1990, at which time this panel of the Board felt there was a need for a hearing so as to deal with the matter. The panel recognized that a majority of the bargaining unit applied for the revocation; however, a hearing was ordered so that evidence could be adduced with respect to arguments advanced in the respondent's reply.

To summarize the reply, arguments were advanced that could be best described as technical in nature, dealing with the form of the application. In addition to this, arguments were advanced, best described as substantive in nature.

A hearing was held on the 29th day of October, 1990, at which time, after hearing evidence and arguments, this Board ruled that the application was properly filed, thus dispensing with the technical argument. Two witnesses were called, both of whom were signatories to the application. Both men gave evidence, and the respondent indicated that he wished to call other witnesses; thus a second hearing was necessary.

A second hearing date was set; however, the day prior to the hearing, the Respondent communicated to the Board that it did not wish to call further evidence and that it was withdrawing its opposition to the application.

The only reason this matter was not dealt with at the time of the initial review, October 3, 1990, was that a reply was filed by the union (by way of statutory declaration) which alleged some very serious actions by members of the unit and also alleged that the members were misinformed re the ramifications of the application if it

were to be successful. It was only because of the serious nature of these sworn allegations that this Board saw the need to have a hearing.

At the hearing very little evidence came forward in support of the respondent's substantive allegations; in fact, the only witnesses called were the applicants themselves. Furthermore the person who signed the statutory declaration did not give evidence, at the hearing, on the substantive issues alleged. The Board is left to wonder seriously where the deponent obtained the information that formed the basis for his statutory declaration.


In light of this series of events, this Board is left to wonder as to whether there was any basis for the substantive allegations within the statutory declaration. Furthermore, the fact that the respondent waited until the day prior to the second hearing date to withdraw (without reasons) its opposition does nothing to ease the Board's collective mind regarding the above.

Therefore this Board rules to grant the application as filed and thus orders the revocation of the Certification Order of the Board dated July 18, 1980. In this particular case, this Board is not prepared to make this decision retroactive or to order the return of union dues paid in the period between the application and this order; however, this Board wishes to give notice that in the future this Board will seriously consider such measures. Such action would be taken only when the Board feels inappropriate action has been taken by a party.

The above comments are most certainly not designed to discourage legitimate, valid or reasonable actions on the part of any party before this Board. This Board is always open to hearing reasonable matters and arguments, even if such are unsuccessful; however, the Board raises the above concerns to discourage the making of serious allegations upon which no evidence is available or advanced.

Therefore, in summary, this Board finds in favour of the Applicant and grants the relief sought.

THIS DECISION made by the Labour Relations Board on December 20, 1990 and issued under the hand of its Chief Executive Officer.

  
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Roy J. Doucette  
Chief Executive Officer

PANEL:

Aidan Sheridan, Vice-Chairman  
James McTague, Member  
Judy Goodwin, Member