



**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: AMENDMENT TO CERTIFICATION ORDER - Exclusions**

**BETWEEN:**

**UNITED FOOD AND COMMERCIAL WORKERS' LOCAL 864**

**APPLICANT**

**AND:**

**AMALGAMATED DAIRIES LIMITED**

**RESPONDENT**

\*\*\*\*\*

**COUNSEL FOR THE APPLICANT:**

**EUGENE P. ROSSITER, Q.C.**

**THE RESPONDENT:**

**UNREPRESENTED & NOT APPEARING**

\*\*\*\*\*

**DECISION**

**BACKGROUND OF APPLICATION:**

1. On November 5, 1991, an application for amendment of Certification Order 25-71 was filed by the Applicant requesting a declaration that those employees covered by Board Certification Order 18-89, issued October 19, 1989 regarding Garden City Dairy are excluded from Board Certification Order 25-71.

2. The Chief Executive Officer sent notice of the

Application to the Respondent on November 19, 1991 and scheduled December 12, 1991 as the terminal date. No documentation was filed by the Respondent within the required time frame.

3. The Labour Relations Board (hereinafter referred to as the "Board") composed of M. Lynn Murray as Chair, Ray McBride as Employee Representative and Jim McTague as Employer Representative, met on January 20, 1992 to consider the application and determined it needed further information.

4. On February 21, 1992, the Board received the following documents:

- (a) a copy of the collective agreement entered into between the Applicant and the Respondent which was in place to and including February 16, 1993;
- (b) a copy of Board Certification Order 25-71;
- (c) a copy of Board Certification Order 26-71;
- (d) a copy of the amendments to Board Certification Orders 25-71 and 26-71; and
- (e) a copy of Board Certification Order 18-89.

5. The foregoing information provided to the Board on February 21, 1992 reveals the following:

- (a) The Labour Relations Board certified the Canadian Food and Allied Workers, Local P282 as the exclusive bargaining agent for the employees of the Respondent on January 13, 1972 by virtue of Board Certification Order 25-71. This Certification Order applied to "all employees of the Respondent in the Province of Prince Edward Island including truck drivers, truck driver salesmen, plant employees, maintenance and mechanical staff, but excluding office staff employees, plant foremen and above the rank of foremen".

- (b) The Labour Relations Board also certified the Canadian Food and Allied Workers, Local P282 as the exclusive bargaining agent for all office staff of the Respondent on January 13, 1972 by virtue of Board Certification Order 26-71.
- (c) The Board amended Certification Orders 25-71 and 26-71 on September 18, 1980 to change the name of the exclusive bargaining agent from Canadian Food and Allied Workers, Local P282 to United Food and Commercial Workers International Union, Local 282P.
- (d) The Labour Relations Board certified the United Food and Commercial Workers, Local 1252 (In Trusteeship) as the exclusive bargaining agent for the employees of the Respondent on October 19, 1989 by virtue of Board Certification Order 18-89. This Certification Order applied to "all employees of the Respondent employed at Garden City Dairy at its West Royalty and Charlottetown, Prince Edward Island locations including all plant employees, truck drivers, and delivery employees, but excluding foreman and those above the rank of foreman, office staff and those who work 20 hours or less per week and students during recognized holidays".
- (e) The Applicant entered into a collective agreement with the Respondent for the employees in Summerside and vicinity, O'Leary and Crapaud, P.E.I. The Agreement was in effect until February 16, 1993 and was signed by United Food and Commercial Workers International Union Local 1252.

6. The Board met again on March 25, 1992 in relation to this application but did not conclude its determination in relation thereto.

**COMPOSITION OF BOARD PANEL:**

7. Subsequent to March 25, 1992, the Employee Representative sitting on this matter withdrew from sitting on this panel of the Board as the particular member has matters pending before the Board, which commenced on March 27, 1992. In light thereof, that Board member is not partaking in any Board meetings, activities or otherwise until such time as all matters pending before the Board which involved his union are resolved. This position was necessary as a result of a decision rendered by the Prince Edward Island Supreme Court - Appeal Division in The National Automobile, Aerospace and Agricultural Implement Workers' Union of Canada (CAW-Canada) v. United Food and Commercial Workers Union, Local 1252 (in Trusteeship) and United Food and Commercial Workers' International Union, [1988] 1 P.E.I.R. B-16.

8. In light of the circumstances enumerated above, this matter presently before the Board is being concluded by the Chair and the Employer Representative sitting together and constituting a quorum under Section 3(8) of the Labour Act, R.S.P.E.I. 1988, Cap. L-1.

**DECISION:**

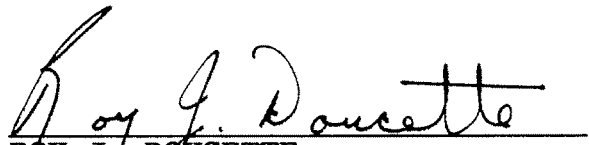
9. Having reviewed the documentation, the Board has satisfied itself that there is a duplication between Board Certification Order #25-71 as amended, Board Certification Order #26-71 as amended, and Board Certification Order #18-89.

10. Accordingly, a declaration and order will issue to the Applicant stating that Board Certification Order 25-71 and 26-71 are amended to exclude those employees that are included in the bargaining unit certified by the Board on October 19, 1989 by virtue Certification Order 18-89. The new unit covered by Certification Orders 25-71 and 26-71 will be amended to read as follows:

"all employees of the Respondent in the Province of Prince Edward Island excluding those employees covered by Certification Order # 18-89 employed at Garden City

Dairy in Charlottetown and West Royalty, said unit including truck drivers, truck driver salesmen, plant employees, maintenance and mechanical staff, and office staff but excluding plant foremen and above the rank of foremen".

This decision of the Labour Relations Board was made this 31st day of December, A.D. 1992 and issued under the hand of its Chief Executive Officer.

  
ROY J. DOUCETTE  
CHIEF EXECUTIVE OFFICER

**PANEL:**

M. Lynn Murray:Chair  
Jim McTague :Member