

Application No. 91-027



**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: SUCCESSOR TRADE UNION**

**BETWEEN:**

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

**APPLICANT**

**AND:**

**LOBSTER SPECIALTIES LTD.**

**RESPONDENT**

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**COUNSEL FOR THE APPLICANT:**

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

**THE RESPONDENT:**

**UNREPRESENTED & NOT APPEARING**

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

**BACKGROUND OF APPLICATION:**

1. On November 5, 1991, an application for successor trade union status was filed by the Applicant requesting a declaration that United Food & Commercial Workers, Local 864 has acquired the rights, privileges and duties of its predecessors United Food & Commercial Workers, Locals 1252 and 282P by reason of a merger, amalgamation or a transfer of jurisdiction.

2. The Chief Executive Officer sent notice of the

Application to the Respondent on November 15, 1991 and scheduled December 6, 1991 as the terminal date. No documentation was filed by the Respondent within the required time frame.

3. 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 at which time the Board determined that further information was required.

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

- (a) a copy of the collective agreement entered into between United Food and Commercial Workers International Union, Local 1252 and Summerside Sea Products Limited which was in place to and including April 13, 1990;
- (b) a copy of Board Certification Order 11-72; and
- (c) a copy of the amendments to Board Certification Orders 11-72.

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 Paturel; Division of National Sea Products Limited on August 1, 1972 by virtue of Board Certification Order 11-72. This Certification Order applied to "all employees of the Respondent in the Summerside plant including all plant workers, maintenance staff and boiler and refrigeration employees, but excluding quality control workers, security employees, foremen and those above the rank of foremen".
- (b) The Board amended Certification Order 11-72 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.

- (c) Summerside Sea Products Limited entered into a collective agreement with United Food and Commercial Workers International Union, Local 1252 for the employees of the Summerside plant. The agreement was in effect until April 30, 1990.
- (d) The Board was advised that the Labour Relations Board had declared the Respondent a successor to Summerside Sea Products Limited.

6. The Board met again on March 25, 1992 in relation to this Application. On March 26, 1992, the Board requested certain information from the Applicant Union in the form of:

- (a) Documentation of the merger, amalgamation or a transfer of jurisdiction from Canadian Food and Allied Workers Local P282 to United Food and Commercial Workers Local 282P to United Food & Commercial Workers Local 1252 to United Food and Commercial Workers Local 1252 (In Trusteeship) to United Food and Commercial Workers, Local 864.
- (b) Copy of Constitution of the United Food and Commercial Workers International.

7. On April 7, 1992 the Board received packages of information from the Applicant providing certain information that the Board had requested, namely, copies of the following:

- (a) Constitution of Retail Clerks International Union as amended at its convention July 25-29, 1977.
- (b) Constitution of the Amalgamated Meat Cutters and Butcher Workmen of North America as amended at its convention June 1-4, 1976.
- (c) Constitution of the United Food and Commercial Workers International Union as amended at its convention August 1-5, 1983 as well as the Merger Agreement adopted June 5-6, 1979 and amended through to August 5, 1983.

- (d) Charter granted by United Food and Commercial Workers International Union to United Food and Commercial Workers Union Local 282P on June 6, 1979.
- (e) Merger Agreement between Newfoundland Fishermen, Food and Allied Workers Union, Local 1252 United Food and Commercial Workers and United Food and Commercial Workers, Local 282P dated September 14, 1984, subject to approval of the International Executive Board of the United Food and Commercial Workers International Union.
- (f) Letter of International Vice President of United Food & Commercial Workers International Union to President of United Food and Commercial Workers International Union dated October 5, 1984 with memo attached recommending approval of merger between Locals 282P and 1252.
- (g) Bylaws of United Food and Commercial Workers Local No. 1252 Fishermans Union approved April 4, 1986.
- (h) Partial transcript of evidence taken before Prince Edward Island Labour Relations Board September 6, 1990 where the Prince Edward Island Labour Relations Board ruled that UFCW Local 1252 was the successor to UFCW 282P.
- (i) Bylaws of United Food and Commercial Workers Union, Local No. 1973.
- (j) Minutes of Joint Executive Board Meeting between UFCW Local 1973 and UFCW Local 1252 approving merger document November 9, 1991.
- (k) Proposed merger document between United Food and Commercial Workers Unions, Locals 1973 and 1252.
- (l) Bulletin from Presidents of UFCW Locals 1973 and 1252 regarding merger of two unions and vote to be held.
- (m) Copy of official merger ballot.
- (n) List of merger votes taken at various plant units and dates of such.
- (o) Tabulated results of merger votes indicating majority voted for merger.
- (p) Application for Charter Modification dated January 1,

1991 regarding United Food and Commercial Workers Union, Local 864.

- (q) Letter from International President of United Food and Commercial Workers International Union dated January 25, 1991 indicating merger had been approved by executive Board and will now be referred to as United Food and Commercial Workers Union, Local No. 864.
- (r) Minutes of Executive Board Meeting of United Food and Commercial Workers Union, Local 864 held January 27-28, 1991.
- (s) Charter granted to United Food and Commercial Workers Union, Local No. 864 by United Food and Commercial Workers International Union on January 1, 1991.
- (t) Letter dated February 14, 1991 signed by UFCW Local 1973 and UFCW Local 1252 indicating merger to United Food & Commercial Workers Union, Local 864 was effective January 1, 1991.
- (u) Letter dated June 4, 1991 from International President of United Food & Commercial Workers International Union to President of United Food and Commercial Workers Union, Local 864 regarding amendment and approval of Bylaws of Local 864.
- (v) Letter dated October 8, 1991 from International President of United Food and Commercial Workers International Union to President of Local 864 confirming International Union approved merger.
- (w) Constitution of United Food and Commercial Workers International Union as amended at its convention July 25-29, 1988.

**COMPOSITION OF BOARD PANEL:**

8. 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.

9. 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:**

10. Since the last information was received, the Board had four (4) applications placed before it dealing with successorship and/or revocation of the employees at the plant in Summerside. [See Board Applications 92-009, 92-010, 92-019, and 92-020].

11. After hearing argument on those applications from the parties in question, namely, the Union and the employer, the Board conducted a vote and rendered a decision in Board Applications 92-009 and 92-010 on June 30, 1992. By its decision of June 30, 1992, the Board revoked Certification Order 11-72 and any amendments made thereto. The remaining applications, namely, 92-019 and 92-020 were withdrawn.

12. In light of the foregoing, and the fact that the Certification Order regarding the former employees of the Respondent has been revoked, the Labour Relations Board will not make the declaration requested in relation to the Respondent. Accordingly, the Board dismisses this Application.

This decision of the Labour Relations Board was made this 26<sup>th</sup> day of November, A.D. 1992 and issued under the hand of its Chief Executive Officer.

  
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ROY J. DOUCETTE  
CHIEF EXECUTIVE OFFICER

**PANEL:**

M. Lynn Murray:Chair  
Jim McTague :Member