



**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: APPLICATION FOR REVIEW OF CERTIFICATION ORDER 06-92**

**BETWEEN:**

**MACINTYRE SHEET METAL LTD.**

**APPLICANT**

**AND: UNITED ASSOCIATION OF JOURNEYMEN AND APPRENTICES OF THE  
PLUMBING AND PIPE FITTING INDUSTRY OF THE UNITED STATES AND  
CANADA, LOCAL 721**

**RESPONDENT**

**COUNCIL FOR THE APPLICANT**

**J. GORDON MACKAY**

**COUNCIL FOR THE RESPONDENT**

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

**DECISION**

The above Application was initiated by the Applicant Employer by way of a letter from its Council dated April 9, 1992. The text of the letter in part is as follows:

*"As you know, we represent MacIntyre Sheet Metal Limited with respect to the captioned and we do hereby confirm our request for a review of the Certification Order issued by the Labour Relations Board on March 31st, 1992, which request for a review was made to you on Friday, April 3rd, 1992, pursuant to Section 54(6) of the Labour Act, R.S.P.E.I. 1988, Cap. L-1.*

*The matters in issue on the review will be set out under separate cover."*

The intent of the letter was to request that the Board review Certification Order (Serial # 06-92) issued March 31, 1992. That Order had the effect of certifying the Respondent Trade Union for a unit of employees engaged in the plumbing & pipefitting trade as carried on by the Applicant Employer.

On April 21, 1992, the Applicant filed an affidavit of Mr. Frank MacIntyre, President of MacIntyre Sheet Metal Ltd., setting out the grounds upon which the Applicant was relying in its application for review.

A hearing to consider the matter was convened on April 6, 1992.

By way of preliminary objection, Council for the Respondent contended that the Board did not have jurisdiction to proceed and argued as follows:

(a) Section 54(6) requires that an employer named in a certification under Section 54(2) may only apply for a review of the Certification Order within 10 days of the date of issue and that such application must be in the manner as prescribed by Section 2 of the Regulations.

(b) Council argued that since the letter from Mr. MacKay of April 9 was not filed by way of Statutory Declaration as required by Section 2 of the Regulations, it could not constitute an Application and the Board therefore did not have jurisdiction to proceed with the review.

(c) Council argued further that since the 10 day time period required by Section 54(6) was a statutory mandate, the Board did not have the power to amend that time period.

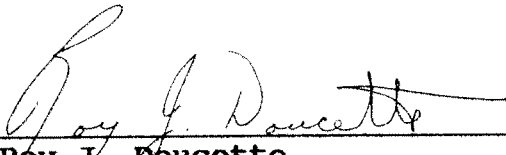
(d) Council argued that the statutory declaration of Mr. MacIntyre referred to above and dated April 21st was beyond the 10 day period and could not be considered by the Board as meeting the requirements of Section 2 of the Regulations.

Council for the Employer argued that the provisions of Section 2 of the Regulations should not apply and that the review as contemplated in Section 54(6) should be interpreted as a continuation of the initial Application for Certification. This would have the effect of removing the requirement of Section 2 of the Regulations that the Employer file his request for review by way of Statutory Declaration and in effect the letter of April 9 from Mr. MacKay requesting a review would be sufficient to meet the requirements of Section 54(6).

Upon due consideration, the Board finds that Section 54(6) is specific in that the request for review from the Employer must be by way of Application and that such Application must be in the manner as prescribed by Section 2 of the Regulations. The Board also finds that it does not have authority to amend the 10 day time period as stipulated in Section 54(6). Consequently the Board does not have the authority to consider the Statutory Declaration of Mr. MacIntyre dated the 21st day of April to be an Application which would satisfy the requirements of Section 54(6).

**THEREFORE**, the Board does not have jurisdiction to review Certification Order #06-92.

This decision made by the Labour Relations Board on May 14, 1992 and issued under the hand of its Chief Executive Officer

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

**PANEL:**

J.J. Revell, Vice-Chairman  
Judy Goodwin, Member  
Gerald Doyle, Member