



**GOVERNMENT OF PRINCE EDWARD ISLAND  
LABOUR RELATIONS BOARD**

Michele D. Sanderson, B.A., LL.B.  
Chair

Roy J. Doucette  
Chief Executive Officer

DEPARTMENT OF LABOUR  
P.O. BOX 2000  
CHARLOTTETOWN  
PRINCE EDWARD ISLAND  
C1A 7N8

**RE: APPLICATION TO RECONSIDER/DISMISS A SUCCESSORSHIP APPLICATION**

**BETWEEN:**

**RETAIL, WHOLESALE AND DEPARTMENT STORE UNION INTERNATIONAL  
APPLICANT**

**AND:**

**PERFECTION FOODS LIMITED**

**RESPONDENT**

**AND:**

**RETAIL WHOLESALE CANADA/CANADIAN SERVICE SECTOR  
DIVISION OF THE UNITED STEELWORKERS OF AMERICA,  
LOCAL 1515**

**INTERVENOR**

**COUNSEL FOR THE APPLICANT:**

**RAYMOND F. LARKIN, Q.C.  
KIMBERLEY H.W. TURNER**

**COUNSEL FOR THE RESPONDENT:**

**UNREPRESENTED**

**COUNSEL FOR THE INTERVENORS:**

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

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

**BACKGROUND**

This is an Application to Reconsider Leave to Withdraw or to Dismiss a Successorship filed originally by Retail Wholesale Canada/Canadian Service Sector of the United Steelworkers of America, (hereinafter referred to as the "Steelworkers").

On or about October 8, 1993, the Steelworkers filed an Application for an Order under Section 40 of the Labour Act, R.S.P.E.I. 1974, Cap. L-1 declaring it to be the Successor of the Retail, Wholesale and Department Store Union, Local 1515, by reason of merger, amalgamation, or transfer of jurisdiction.

On or about November 8, 1993, the Retail, Wholesale and Department Store Union International, (hereinafter referred to as the "International") filed an intervention in this matter with the Labour Relations Board of Prince Edward Island (hereinafter referred to as the "Board").

The Board set the week of January 17, 1994, as Hearing dates for this matter. On January 14, 1994, the Board received notice by telephone, then followed by letter, that the Steelworkers wished to withdraw the Application for Successor Trade. Notice was also given to the International on January 14, 1994 of the Steelworkers wish to withdraw its Application for Successor Trade.

A Panel of the Board met on January 17, 1994, and consented to the Steelworkers request to withdraw its Application. Up to that time the Board received no indications or representations from the International that it objected to the intended withdrawal, nor that it desired to make any representations, arguments or to lead any evidence before the Board with respect to this request.

#### THE LAW

The Board's power of reconsideration is derived from Section 4(1) of the Labour Act which reads:

*"The Board has exclusive jurisdiction to exercise the powers conferred upon it by or under this Part and to determine all questions of fact or Law that arise in any matter before it, and the action or decision of the Board, thereon is final and conclusive for all purposes, but nevertheless, the Board may at any time, if it considers it advisable to do so, reconsider any decision, interim order, order, direction, declaration or ruling made by it and vary or revoke any such decision, interim order, order, direction, declaration or ruling."*

The referenced Section gives the Board a broad discretion in its power to reconsider. Section 18 of the Regulations state:

*"Where it appears the Board has made a Decision in ignorance of some material fact, or by reason of some technical irregularity, or if there is good reason for the Board doing so, the Board may entertain an Application to Reconsider a Decision or Order made by it under the Act."*


In plain reading of the Legislation and Regulations it is apparent that the Board has jurisdiction to reconsider where it has made a Decision in ignorance of material fact, or there has been a technical irregularity, or for some other good reason. This Board's practice has been to use its power of reconsideration very sparingly.

The International states that there has been a breach of natural justice; there has been a failure to disclose; there has been an attempt to circumvent a previous decision of the Board; there has been an abuse of process; and that the Steelworkers displays contempt for process or previous Board Decisions.

Regarding the issue of a breach of natural justice, the Board finds that the International had reasonable notice of the Steelworkers' wish to withdraw its Successor Trade Application. The Board also finds that the International made no representations to the Board that it objected to the request to withdraw. Additionally this Application filed by the International for reconsideration or dismissal discloses no new material facts that were not before the Board at the time it consented to the withdrawal. The Board finds no foundations to the International's allegations with respect to disclosure and abuse of process. A Party is entitled to choose its own course of action before the Labour Relations Board and the Board confirms that its consent to withdrawal is consistent with its past practice, and indeed with the practice of other Boards in other jurisdictions.

The Board hereby dismisses the Application for Reconsideration and confirms its consent to the Steelworkers' request to withdraw its Application for Successor Trade. The International application for dismissal of the original Successor Application is therefore moot.

This Decision was made by the Prince Edward Island Labour Relations Board on the 22nd day of February, 1994 and is issued under the hand of its Chief Executive Officer.

  
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Roy J. Doucette  
Chief Executive Officer

**PANEL:**

Michele D. Sanderson, Chair  
Elizabeth MacFadyen, Member