



File No. 95-062

Decision No.

**IN THE MATTER OF THE UNFAIR LABOUR PRACTICE COMPLAINT**

**BETWEEN:**

**SHERRY COLE**

**APPLICANT**

**AND:**

**ELIZABETH HORNE**

**RESPONDENT**

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

**BACKGROUND**

Sherry Cole filed a Complaint that the Respondent violated Subsection 2(e) of Section 10 of the Prince Edward Island Labour Act. Ms. Cole complained that she was being harassed at her workplace after she had let it be known that she didn't want to be a part of the Union.

Following the filing of the Complaint on November 6, 1995, and pursuant to the Labour Act, the Chief Executive Officer inquired into the Complaint and endeavoured to affect a settlement. The Chief Executive Officer advised that he was unable to affect a settlement of the matter complained of. The matter was then set down before the Board to conduct a Hearing on December 8, 1995.

Ms. Cole's evidence at the Hearing made it clear that she was not coerced or intimidated to sign or become a member of the Union. From Ms. Cole's evidence, it could be gathered that she was the driving force behind the anti-union movement within the work place. She organized a meeting on October 13 at her home. At that meeting she encouraged members in the Union to withdraw their membership and she produced a petition to that effect. Subsequent to that meeting, Ms. Cole complained that she was being harassed by certain employees and in particular the Respondent. It can be concluded from her conduct that she didn't treat Elizabeth Horne's statements or actions as a threat or intimidation.

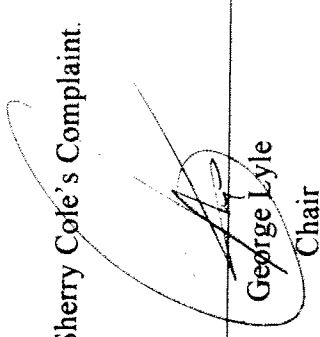
It would appear from Ms. Cole's evidence that her major complaint is harassment and the feeling of dissention that has taken over the work place. However, she didn't present any evidence which would allow the Board to conclude that Ms. Horne's action amounted to unfair labour practice.

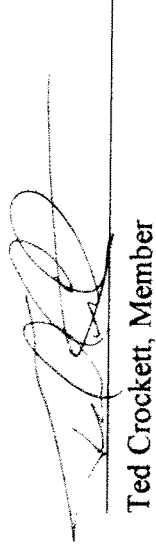
**DECISION**

The law is quite clear on this subject and is stated on page 192 in the Ontario Labour Relations Board A Law and Practice, by Sack and Mitchell, published by Butterworth, 1985 that in determining the effect of a threat on membership evidence the Board must consider the nature of the threat and whether it is made and taken seriously, whether it could reasonably be carried out, and the role and authority of the person responsible. The test of intimidation utilized by the Board is an objective one. It must look at the conduct of the Respondent and would it deter a reasonable employee of ordinary conviction. The Board distinguished between intimidation and peer pressure, which is inherent in trade union organizing and which is not relevant to the reliability of membership evidence.

In the instant at hand, Ms. Cole's evidence is quite clear, she was not intimidated or coerced with the view of encouraging or discouraging membership in or activity in or against the union. She, in her own words, stated that she voluntarily signed the petition against the Union. The matter that she is complaining about had taken place six weeks after the membership cards were signed. The Board is unable to find any evidence of coercion or intimidation that affected her decision not to become a member of the Union nor did Ms. Horne's comments deter her from her activity opposing the formation of a Union. The Board is of the opinion that the nature of her Complaint is nothing but peer pressure.

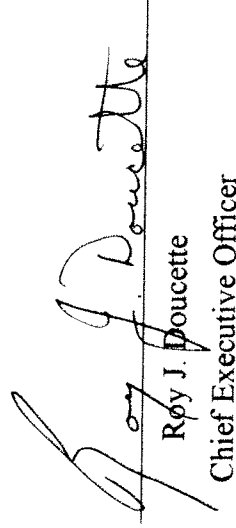
The Board therefore dismisses Sherry Cole's Complaint.

  
George Lyle  
Chair

  
Ted Crockett, Member

  
Gerry Doyle, Member

**THIS DECISION** made by the Labour Relations Board on this 19th day of January, 1996 and issued under the hand of its Chief Executive Officer.

  
Roy J. Doucette  
Chief Executive Officer