



File No. 95-062

Decision No.

IN THE MATTER OF THE UNFAIR LABOUR PRACTICE COMPLAINT

BETWEEN:

MARY PAYNTER

APPLICANT

AND:

**NATIONAL AUTOMOBILE AEROSPACE TRANSPORTATION AND
GENERAL WORKERS OF CANADA (CAW-CANADA)**

RESPONDENT

DECISION

BACKGROUND

Mary Paynter filed a Complaint that the Respondent violated Subsection 2(e) of Section 10 of the Prince Edward Island Labour Act. Mrs. Paynter complained that she was being harassed at her workplace after she let it be known that she no longer wanted 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.

Mrs. Paynter's evidence at the Hearing made it clear that she was not coerced or intimidated to sign or become a member of the Union. That in fact she did sign a Union membership card and paid the membership fee. About six weeks after she signed the card, she attended a meeting, on October 13, at Sherry Cole's home. At that meeting she decided that she would withdraw her membership in the Union and she signed a petition to that effect. Subsequent to that meeting and her decision to sign a withdrawal of membership, Mrs. Paynter complained that she was being harassed by certain employees about her decision to withdraw from the Union.


It would appear from Mrs. Paynter's evidence that her major Complaint is harassment and the feeling of dissention that has taken over the work place.

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, Mrs. Paynter'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 membership cards. 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 her decision to withdraw her membership from the Union. The Board is of the opinion that the nature of her Complaint is nothing but peer pressure.

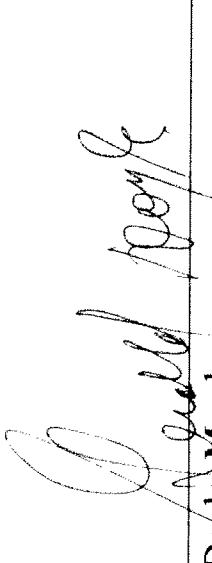
The Board therefore dismisses Mary Paynter's Complaint.



George Lyle
Chair

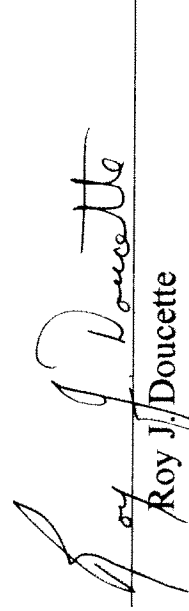


Ted Crockett, Member



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