

File No. 97-001

Decision No.

**APPLICATION FOR REVOCATION OF CERTIFICATION ORDER**

**BETWEEN:**

**GLEN MACKINNON, SYLVAIN GALLANT, ZOEL ARSENAULT,  
REUBEN FEEHAN et al., EMPLOYEES OF B-LINE CONSTRUCTION**

**APPLICANT**

**AND:**

**INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS  
LOCAL, 1432**

**RESPONDENT**

**AND:**

**B-LINE CONSTRUCTION (TRADE NAME) A DIVISION OF N.A.S.  
HOLDINGS LTD.**

**RESPONDENT**

**Counsel for the Applicant:**

**David Sanderson, Esq.**

**DECISION**

**FACTS**

Pursuant to an Application for Certification by the International Brotherhood of Electrical Workers, Local 1432, an Order for Certification was granted to the International Brotherhood of Electrical Workers, Local 1432, as bargaining agent of a unit of employees of B-Line Construction (Trade Name) a division of N.A.S. Holdings Ltd., on the 9th of January, 1996, having a serial number 02-96.

The Board received on January 20, 1997, the Application for Revocation of the foregoing Certification Order signed by 14 employees of B-Line Construction duly prepared pursuant to Form 7 as set out in the regulation of the Labour Act. The Application alleges that a majority of the employees in the unit no longer wish the Respondent Trade Union to act as the bargaining agent on their behalf. Further, it is alleged that there is no collective agreement in place.

Upon receipt, the Chief Executive Officer of the Labour Relations Board provided notice to the Respondents. The International Brotherhood of Electrical Workers, Local 1432 was instructed to Reply to the Application pursuant to Section 14 of the regulations of the Labour Act by filing Form 10 on or before the terminal date, being February 6, 1997. The Labour Relations Board received a faxed reply on February 3, 1997, from the International Brotherhood of Electrical Workers, Local 1432, in the form of a letter from Mr. Ray McBride, the Business Manager.

A hearing was set for March 7, 1997, with David Sanderson, Esq., appearing on behalf of the employee group, Applicant, and Mr. Ray McBride, appearing on behalf of the Respondent Union, and no one appearing on behalf of the Employer. At the commencement of the hearing, the Counsel for the Applicant objected to the nature of the reply filed by the Union. Counsel noted that the reply did not conform with Section 14 of the Labour Act Regulations, as the Union did not file, a duly sworn, Form 10. Mr. McBride, in response, indicated that it was his intention to file Form 10 pursuant to Section 14 of the Labour Act Regulations, but failed to do so. He requested that the Board abridge the time required to reply pursuant to Section 25 of the Labour Act Regulations in order to allow him to file Form 10 pursuant to Section 14 of the Labour Act Regulations with the panel at this time.

In reply to the Respondent's request, the Applicant noted that the Union's Business Manager, is experienced in labour matters and should have been aware of the requirements of the Labour Act and Regulations. It was further noted that for the Board to exercise its discretion and abridge time, pursuant to Section 25 of the Labour Act Regulations some matter of public interest must be served.

The Board was of the unanimous opinion that in the present circumstances there was no public interest to be served by abridging time. The Board noted that the Respondent Union had ample notice by way of a letter from the C.E.O. of the Labour Relations Board to the Respondent Union, setting out the requirement of the Act and Regulations, for a reply pursuant to Section 14, by filing Form 10, on or before the terminal date. The Board further noted that a response was received by the Board, however, not by way of Form 10 pursuant to Section 14 of the Regulation. The Board also notes that there are no reasons given by the Respondent Union as to why it could not have filed Form 10 on or before the terminal date. The Board was of the opinion that if there was a compelling reason why the Form 10 could not have been filed, then the Board was prepared to abridge the time. However, in this particular instance, the Board was unable to conclude that there was a compelling reason on the facts that have been provided to it. Therefore, the Board concludes that the response received by the Chief Executive Officer of the Board is deficient and not in a form as required by Section 14 of the Labour Act Regulations. Therefore, the Union Respondent does not have standing at this hearing.

The Board heard the evidence of Mr. Reuben Feehan, one of the employees of B-Line, and one of the Applicants in this Application for Revocation of the Certification Order 02-96. Mr. Feehan advised the Board that he has been employed by B-Line since 1995, that his duties in his employment have varied from tree-trimming to installing electrical cable. Mr. Feehan testified that he signed the Application for Revocation and that he was one of 14 employees named in the Application. Mr. Feehan testified that he was not approached by his employer to participate in this Application, nor did he have any knowledge of his employer being involved or of encouraging any of the other employees to sign the Application. He further testified that, as far as he was aware, all the employees of B-Line, for the time being, signed the Application for Revocation.

Mr. Feehan further testified that he had not been contacted by the Union prior to this Application, nor was he aware of the Union contacting any of the other employees who have signed this Application. However, he was contacted by the Union after this Application for Revocation was filed with the Labour Relations Board. The Union requested Mr. Feehan to reconsider his Application. He testified that he interpreted the way the request was made to be a threat. However, on examination by the panel, he was unable to provide the nature of the threat.

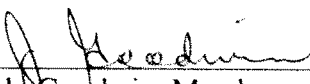
Mr. Feehan further testified that he is not aware that any of the employees are members in good standing with the Union. However, he did indicate to the panel that the employees do not wish to be involved in the Union. The employees who signed the Application, according to Mr. Feehan, are all full-time, part-time employees. The time and nature of their work depends on contracts granted to the employer with lay-offs during periods of no contract of work.

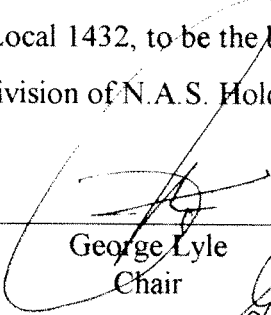
Mr. Feehan further testified that he is not a foreman; however, on occasions, he does direct the nature of the work to be undertaken by employees on the job.

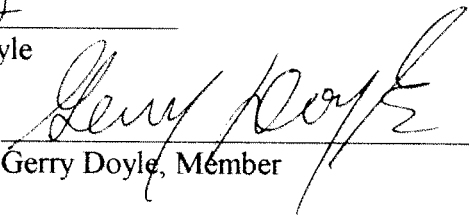
Counsel for the Applicant, on submission, suggested that the Application speaks for itself, that it was made by all employees of the Employer Respondent, that the Board has no evidence before it that the employees are in good standing with the Union, that there is no evidence of Employer interference, that there is no knowledge of any collective agreement in place and that all statutory requirements of Section 20 of the Labour Act have been met.

**DECISION**

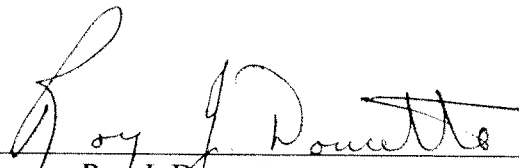
Based upon the facts that have been presented to the Board and the evidence provided to the Board that a majority of the employees of the Respondent Employer no longer wish the trade Union to act as the bargaining agent on their behalf, pursuant to Section 20(2) of the Labour Act, the Board revokes the Certification Order, Serial No. 02-96, certifying the International Brotherhood of Electrical Workers, Local 1432, to be the bargaining agent of all employees of B-Line Construction (Trade Name) a Division of N.A.S. Holdings Ltd.

  
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Judy Goodwin, Member

  
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George Lyle  
Chair

  
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Gerry Doyle, Member

**THIS DECISION** made by the Labour Relations Board on the 25th day of March, 1997 and issued under the hand of its Chief Executive Officer on this 18th day of April, 1997.

  
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Roy J. Doucette  
Chief Executive Officer