



**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

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

**RE:           DEFICIENCIES OF REPLIES FILED**

**BETWEEN:   UNITED FOOD AND COMMERCIAL WORKERS LOCAL 1252**  
**(IN TRUSTEESHIP)** **APPLICANT**

**AND:         LOBSTER SPECIALTIES LIMITED** **RESPONDENT**

**COUNSEL FOR THE APPLICANT - Eugene P. Rossiter**  
**COUNSEL FOR THE RESPONDENT - Karen A. Campbell**

The Applicant raises this motion claiming that the replies filed by the Respondent's solicitor are deficient as they were unsworn and not signed by the proper officers of the Respondent Company.

The Respondent has filed four replies:

1. dealing with the Application under Section 38 (now 39) of the Labour Act re transfer of business from Summerside Sea Products Limited to Lobster Specialties Limited;
2. dealing with the Application for Amendment to Certification Order;
3. reply to Unfair Labour Practice Complaint; and
4. reply dealing with Application for Successor Rights re Local 282P to Local 1252 United Food and Commercial Workers (In Trusteeship).

All replies were signed by Karen Campbell in her capacity as solicitor for the Respondent.

The Board has reviewed the documents and all relevant legislation. Section 3 (12) of the Labour Act empowers the Labour Relations Board to determine its own practice and procedures. The Labour Relations Board has determined that it wishes all preliminary documentation filed with the Board (By preliminary, we mean prior to the hearing) to be tendered by the parties as described in Section 2 (2) of the Regulations and sworn as to its accuracy. The reasoning for such a rule is obvious. The Labour Relations Board is empowered to determine matters properly brought before it without the necessity

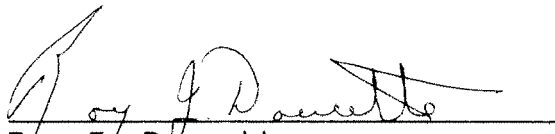
for a hearing. It would be most improper if a determination were to be made based upon evidence or pleadings that were not sworn. Although the Regulations to the Labour Act do not specifically require replies (other than those specifically prescribed in the Forms set out in the Labour Act Regulations) to be sworn, this Board is establishing a practice of requiring such action.

Therefore, the Board rules that the replies filed by the Respondent in this matter are not acceptable and directs the Respondent, pursuant to Sections 25 and 26 of the Regulations, to file proper replies on or before August 1, 1990. This direction relates to all four of the replies filed by the Respondent.

This pronouncement does not, in any way, affect the Respondent's right to be present, call evidence, cross examine witnesses and generally defend the action brought against it. Section 22 (2) of the Regulations clearly puts the discretion in this Board to allow a party to a proceeding to appear, call evidence and defend the Application. It must be emphasized that the Respondent is indeed a proper party to this proceeding, and it would break the most fundamental rule of Natural Justice to deny the Respondent the opportunity to be present, hear and defend the case made against it. The Applicant suggests that Section 24 (3) of the Regulations applies, in that the failure to file proper replies (as alleged by the Applicant) served to disentitle the Respondent from further participation unless the Board, in its discretion, ruled otherwise. This Board wishes to make it clear that it feels this Section deals with other interested persons in a proceeding, not a party to a proceeding, as this area is covered in Section 22 (2) of the Regulations.

In conclusion the Board rules that it will not accept the replies filed by the Respondent in their current form but will permit the Respondent to file proper replies signed and sworn to by the proper officers of the Respondent Company. The Respondent, nonetheless, is a proper party before the Board and will continue to carry all rights associated with this status, both prior to and subsequent to the filing of proper replies as required by Section 16 (4) of the Regulations.

THIS DECISION made by the Prince Edward Island Labour Relations Board on July 13, 1990 and issued under the hand of its Chief Executive Officer.



Roy J. Doucette  
Chief Executive Officer

PANEL:

Aidan Sheridan, Vice-Chairman  
Elizabeth MacFadyen, Member  
Lloyd Weeks, Member