

Public Service Staff
Relations Act



Before the Public Service
Staff Relations Board

BETWEEN

STAFF OF THE NON-PUBLIC FUNDS, CANADIAN FORCES

Applicant

and

UNITED FOOD AND COMMERCIAL WORKERS UNION, LOCAL 864

Bargaining Agent

RE: Application for Revocation of Certification -
Operational Category - CFB Chatham

Before: [Y. Tarte, Chairperson](#)

(Decided without an oral hearing)

DECISION

By decision of August 19, 1981, as amended on June 27, 1991, the Board certified the United Food and Commercial Workers Union, Local No. 864 as bargaining agent for all employees of the employer in the Operational Category employed at the Canadian Forces Base at Chatham in New Brunswick in respect of whom the Staff of the Non-Public Funds, Canadian Forces is the employer: (Board file 146-18-194).

The applicant/employer has now submitted an application for the revocation of the certification of the United Food and Commercial Workers Union Local 864 as bargaining agent for the above bargaining unit. The application is made on the basis that there are no longer any employees in the bargaining unit and, as such, the United Food and Commercial Workers Union, Local 864 has ceased to act as bargaining agent. While the application was initially made under section 42, the applicant subsequently confirmed that section 43 is the appropriate section. Subsection 43(1) reads as follows:

The Board shall revoke the certification of a bargaining agent where the bargaining agent advises the Board that it wishes to give up or abandon its certification or where the Board, on application by the employer or any employee, determines that the bargaining agent has ceased to act as bargaining agent.

The term "bargaining unit" is defined in subsection 2(1) of the Act as follows:

"bargaining unit" means a group of two or more employees that is determined, in accordance with this Act, to constitute a unit of employees appropriate for collective bargaining.

In response to the application, the bargaining agent advised the Board that: "The union feels that the certifications are not only for the employees but also for the locations, and the certifications should stand in anticipation that these facilities could re-open in the future and we should maintain bargaining rights for any employees who would be employed by these employers."

The parties were informed that the issue in this application would be determined without an oral hearing on the basis of written representations. The parties were invited to submit any further arguments in support of their position.

In summary, the employer is relying on section 43(1) of the Act stating that the bargaining agent has ceased to act as such by virtue of the fact that the employment of all employees has been terminated as a result of the closure of the Canadian Forces Base at Chatham, New Brunswick.

The bargaining agent, however, argued that the certification is not only for employees but also for the location and the certification should stand in anticipation that these facilities could re-open in the future. They further stated that they should maintain bargaining rights for any employees who might be employed by this employer at a future date.

In light of the circumstances and after considering the respective positions of the parties, the Board is satisfied that the application should be granted. Since there are no employees, there can be no bargaining unit for which the United Food and Commercial Union, Local 864 could act as bargaining agent.

Accordingly, the certification of the United Food and Commercial Union Local 864 as bargaining agent for all employees in the Operational Category employed at the CFB - Chatham, New Brunswick, in respect of whom the Staff of the Non-Public Funds, Canadian Forces is the employer is hereby revoked.

Yvon Tarte
Chairperson

OTTAWA, March 27, 1997.