

**BRITISH COLUMBIA LABOUR RELATIONS BOARD**

COAST LAUNDRY & LINEN SUPPLY CO. INC.

(the "Employer")

-and-

NATIONAL AUTOMOBILE, AEROSPACE  
TRANSPORTATION AND GENERAL WORKERS UNION  
OF CANADA (CAW-CANADA), LOCAL 3014

(the "Union")

PANEL: Hans Brown, Vice-Chair

COUNSEL: Adam S. Albright, for the Employer  
John Bowman, for the Union

CASE NO.: 39553

DATE OF DECISION: April 23, 1999

## **DECISION OF THE BOARD**

### **I. NATURE OF APPLICATION**

1           The Union applies to be certified for the production staff at Coast Laundry. The proposed unit is described as: "employees at 3625 East 11th Avenue, Vancouver, B.C., except office, sales, drivers, engineers and management". The CAW has the requisite support for automatic certification. This is an application for a second unit. The drivers of Coast Laundry are already certified to the Teamsters.

2           I have received written submissions from the parties. With their agreement I have determined the application from the submissions without a hearing. The Teamsters attended an informal hearing on this application and were invited to participate in the submission process. They took no position on the application.

### **II. BACKGROUND**

3           Coast Laundry is an industrial laundry and supply company operating in Vancouver. There are 137 persons on staff, including 109 production employees who are the subject of this application and 16 drivers in the Teamsters bargaining unit. The production staff and the drivers work out of the same Vancouver location.

4           This is the first application by a trade union to represent the production workers at Coast Laundry. The Teamsters were certified as the bargaining agent for the drivers in September 1998. They are currently negotiating a first collective agreement with the Employer.

### **III. POSITIONS OF THE PARTIES**

5           The Employer asks the Board to dismiss the Union's application on the basis of the Board's policy presumption against multiple bargaining units. It submits that granting a second certification at the same location is contrary to the principle of industrial stability, which is the primary concern at the second or additional stage of certification: *Island Medical Laboratories Ltd.*, BCLRB No. B308/93 (Leave for Reconsideration of IRC No. C217/92 and BCLRB No. B49/93), (1993), 19 CLRBR (2d) 161 ("*IML*").

6           The Employer submits that its production staff should be included in the same bargaining unit, and be covered by the same collective agreement, as its drivers. It says a combined bargaining unit is appropriate and points to similar units at other industrial laundries in B.C. For example, it says that Nelsons Laundry, Unifirst, and Canadian Linen all have unified bargaining units and single collective agreements which cover both production staff and drivers at a single location.

7 Finally, the Employer says the dismissal of the CAW's application for a second certification at Coast Laundry will not deny access to collective bargaining to the production staff. It says the Teamsters may vary these workers into its existing unit, the CAW may apply for the larger combined unit including the production staff and drivers, or the CAW and Teamsters may apply for the combined unit under a poly-party application: *Ferraro's Limited*, BCLRB No. B132/97.

8 The CAW says the facts of each case must be reviewed by the Board. It makes four points. First, it says the Board is entitled to certify a second unit where there is a separate community of interest between the proposed unit and the unit already certified. Second, it says the relative size of the units at issue is important and it asks the Board to "carefully consider" whether the wishes of 16 certified drivers at Coast Laundry should determine the choice of bargaining agent for approximately 120 production employees. Third, it says that the significant difference between the community of interest of the drivers and that of the production staff is sufficient to justify the certification of a second unit at this workplace. It compares this difference to that between office and plant workers, groups that the Board has historically permitted to hold separate certifications.

9 With respect to the certification practice at other industrial laundries, the CAW concedes that Unifirst has a single certification covering production staff, office staff, and drivers at its one location. However, it notes there are three certifications for production workers, drivers, and office staff at Nelsons Laundry in Vancouver; two certifications for production workers and drivers at Canadian Linen in Victoria; and two certifications for production staff and engineers/maintenance staff at Canadian Linen in Vancouver. It says there is no history of industrial instability in this industry despite the proliferation of certifications.

10 Fourth, the CAW says access to collective bargaining is an issue here because the Teamsters did not ask the production workers if they wanted to be represented by the Teamsters, or if they wanted to be included in a bargaining unit with the drivers. The option of Teamster representation was not made available to them. Accordingly, they have chosen to be represented by the CAW.

#### IV. ANALYSIS AND DECISION

11 There are two issues before me: first, whether a second bargaining unit is appropriate at Coast Laundry; and second, whether the unit for which the CAW has applied is an appropriate bargaining unit.

12 *IML* is the leading case on the certification of bargaining units. Access to collective bargaining and industrial stability are the two competing fundamental principles in the Code. While these principles are always present when determining appropriateness, access to collective bargaining is the most important principle on an initial application for certification, whereas industrial stability becomes the most important principle at the second or additional stage of certification.

13 *IML* sets out six community of interest factors to be weighed in making a determination of appropriateness at the second or additional stage of certification:

- similarity in skills, interest, duties, and working conditions;
- the physical and administrative structure of the employer;
- functional integration;
- geography;
- the practice and history of the current collective bargaining scheme;
- the practice and history of collective bargaining in the industry.

14 In the furtherance of industrial stability, there is a presumption against multiple bargaining units. *IML* sets out this policy presumption as follows:

It is axiomatic in labour relations that a proliferation of bargaining units increases the potential for industrial instability. Multiple bargaining units *per se* raise a serious concern about industrial stability. Instead of one strike, there may be several strikes. Each union may potentially whipsaw the employer by trying to leapfrog the last set of negotiations..... (pp. 187-188)

15 *IML* does not dictate the outcome, but rather outlines the approach to be taken at the second or additional stage of certification. The onus is upon the union to rebut the general presumption against a second or additional unit. The Board must weigh the community of interest factors and come to an overall conclusion on the facts of each case: *General Paint Ltd.*, BCLRB No. B260/96; *Costco Wholesale Canada Ltd.*, BCLRB No. B167/98 (upheld on judicial review); *Zellers Inc.*, BCLRB No. B80/99. With respect to the CAW's application for a second certification at Coast Laundry, I will now weigh the community of interest factors.

16 The Union says the different *skills, duties, and working conditions* of production workers and drivers result in significantly and sufficiently distinct communities of interest to permit the certification of a second unit. I cannot agree. Even if I accept the Union's submissions on the differences in hours of work, schedules, time spent in the plant, wage rates, lunchroom usage, and uniforms which are worn by the drivers but not by the production staff, I am not persuaded these differences can be given the weight suggested by the Union. On the contrary, against the backdrop of the Board's policy preference for all-employee units, these considerations provide "only limited conceptual guidance" to the determination I must make: *IML, supra*, at p. 181.

17 The differences highlighted by the Union do not preclude these two groups of employees from being included in the same bargaining unit and covered by the same

collective agreement. The modern all-employee bargaining unit includes widely varying skills and terms and conditions of employment within one collective agreement. These have proven viable for collective bargaining: *IML, supra*, at p. 181. Further, there are already such broadly inclusive bargaining units in existence in the industrial laundry industry: See *Canadian Linen Supply Co. Ltd.*, BCLRB No. B442/94. Accordingly, I find this factor unhelpful in assessing the appropriateness of the proposed second unit at Coast Laundry.

18           The Employer places great significance on the factor of *geography*. Both parties agree that Coast Laundry operates at and from a single location in Vancouver. Neither party suggests the existence of distinguishable communities of interest based on geographic separation, or on the *physical and administrative structure of the Employer's* operations at the single location. I find these two factors favour a single bargaining unit.

19           I infer from the silence of both parties on *functional integration* that neither party considers this factor to be significant in determining the appropriateness of a second unit here. An absence of functional integration between the production workers and the drivers is to be expected given that the drivers were recently certified for their separate unit: *Costco, supra* at p. 6. However, an absence of employee integration is not given great weight in the *IML* analysis at the second or additional stage of certification. Moreover, I find that the pick-up of dirty laundry by drivers, the cleaning of laundry by the production staff, and the return delivery of clean laundry by the drivers constitutes a continuous work process within the meaning of *IML* (at page 182). On the whole, I find that these two considerations balance out, with the result that the factor of functional integration is neutral on the facts of this case.

20           With respect to the remaining two community of interest factors which must be considered on a second or additional application for certification, there is not yet any experience of *collective bargaining at Coast Laundry*, nor does the CAW have any *collective bargaining experience in this industry*. The union has a positive obligation to lead evidence which will satisfy the Board that industrial stability concerns regarding leap-frogging and whipsawing need not be considered: *Coastal Ford Sales Ltd.*, BCLRB No. B393/95. The union cannot rely upon a lack of evidence of industrial instability to rebut the presumption against the proliferation of bargaining units: *The Board of School Trustees of School District No. 37 (Delta)*, BCLRB No. B344/95 (Leave for Reconsideration of BCLRB No. B271/95).

21           The CAW raises two additional issues. First, it asks me to "carefully consider" the respective sizes of the two units at issue and whether the wishes of 16 employees should determine the union representation of approximately 120 employees. Depending on the facts of a case, the size of the employer may be an important community of interest consideration and, in combination with other factors such as geographic separation and lack of functional integration, may be determinative of the appropriateness of a second or additional certification: *Zellers Inc., supra*. However, I find that the size of a proposed second or additional bargaining unit is not a proper factor to be considered or is, at best, one to be accorded very little weight. The same is true with respect to a variation on this theme, the wishes of the employees. The

presumption against certifying additional bargaining units is not rebuttable by evidence of employee preference: *IML, supra*, p. 184; *Coastal Ford Sales Ltd.*, BCLRB No. B431/95 (Reconsideration of B393/95), at p. 9

22           Second, the CAW says access to collective bargaining is a proper concern in this application. However, there is no evidence that the production staff have ever sought representation by the Teamsters, or that the Teamsters turned these employees away. The expansion of the Teamster unit at Coastal Laundry to include the production staff remains a viable option for these employees. Alternatively, the CAW can apply for a larger unit that includes both the production staff and the drivers. Accordingly, I find that access to collective bargaining is not an issue here.

23           In weighing the six community of interest factors, I find that on the facts of this case the most significant factors are geography (a single location) and the physical and administrative structure of the Employer (operating at a single location and with a continuous work process involving both production staff and drivers). These factors favour a single unit. I find all of the other factors to be of little or no weight, or are neutral on the facts. Accordingly, I am not persuaded that a second unit is appropriate here. The presumption against a second unit at Coastal Laundry has not been rebutted.

24           In light of the above analysis, the CAW's application is dismissed.

LABOUR RELATIONS BOARD

HANS BROWN  
VICE-CHAIR