



ONTARIO LABOUR RELATIONS BOARD

Labour Relations Act, 1995

OLRB Case No: 3497-19-R
Certification (Industrial)

United Food and Commercial Workers International Union, Local 175, Applicant
v Honeybee Foods Canada Corporation c.o.b. as Jollibee, Responding
Party

COVER LETTER

TO THE PARTIES LISTED ON APPENDIX A:

The Board is attaching the following document(s):

Decision - July 13, 2020
Certificate - July 13, 2020

DATED: July 13, 2020

Catherine Gilbert
Registrar

Website: www.olrb.gov.on.ca

Address all communication to:

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ONTARIO LABOUR RELATIONS BOARD

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ONTARIO LABOUR RELATIONS BOARD

OLRB Case No: **3497-19-R**

United Food and Commercial Workers International Union, Local 175,
Applicant v **Honeybee Foods Canada Corporation c.o.b. as Jollibee**,
Responding Party

BEFORE: Michael McCrory, Vice-Chair

DECISION OF THE BOARD: July 13, 2020

INTRODUCTION

1. This is an application for certification filed under the *Labour Relations Act, 1995*, S.O. 1995, c.1, as amended (the "Act").
2. The only outstanding matter in this application is an allegation by the responding party, in its response and post-vote submissions, that the applicant relied on a supervisory/managerial employee (who is agreed to be excluded from the proposed bargaining unit) to act as its inside organizer and that this employee was actively involved in soliciting support for the applicant. The responding party submits that there is therefore at least a reasonable likelihood that the membership evidence filed in support of the application does not reflect the true wishes of the employees and, therefore, that this application should be dismissed.
3. For its part, the applicant denies the allegation and requests that the Board exercise its discretion not to inquire into the responding party's allegations or, alternatively, that they be dismissed for failing to establish a *prima facie* case or due to a lack of adequate particulars. The applicant further requests that the Board issue a certificate given the results of the representation vote.

4. Further to a Case Management Hearing, the Board determined that it would decide the applicant's request that the Board not inquire into, or that it dismiss the responding party's allegations by way of written submissions. Following the filing of those submissions, this decision addresses the applicant's request. Before turning to the Board's analysis, a review of the material facts alleged by the responding party is necessary.

THE MATERIAL FACTS ALLEGED

5. In its response and post-vote submissions, the responding party pleads the following material facts.

6. The responding party states that Mr. Pearson Alcantara, who is agreed to be excluded from the bargaining unit and exercises managerial functions for the responding party, improperly solicited support for the applicant. The responding party's post-vote submissions include a description of Mr. Alcantara's duties as well as the alleged improper organizing activity and its effect on employees.

7. With respect to Mr. Alcantara's duties, the responding party states that he was responsible for hiring and training as well as work appraisals and creating work schedules for roughly forty-five percent of the employees in the proposed bargaining unit. The responding party also states that Mr. Alcantara had independent authority to discipline employees and the power to recommend termination.

8. According to the responding party, because a large proportion of employees in the proposed bargaining unit are either part-time or do not have a fixed work schedule, Mr. Alcantara's responsibilities "had a significant effect on the employees' earnings and economic lives."

9. As for the alleged improper activity, the responding party states that Mr. Alcantara acted as the applicant's inside organizer and was "actively involved" in soliciting support for it between December of 2019 and the filing of this application on March 16, 2020.

10. According to the responding party, Mr. Alcantara regularly approached employees to suggest that they form a union and stated that he knew someone who could help.

11. The responding party states that at an offsite meeting between employees and a representative of the applicant, the latter asked whether Mr. Alcantara was coming on multiple occasions and that as a result of this comment and Mr. Alcantara's own actions, those in attendance knew that he supported the applicant's organizing efforts. The responding party does not indicate how many employees attended this meeting or specify whether Mr. Alcantara's "own actions" relate to or are in addition to his earlier comments to employees about joining a union.

12. The responding party states that the applicant likely held other meetings with employees but acknowledges that it is not aware whether Mr. Alcantara attended any meetings between employees and the applicant.

13. Pointing to a history of favouritism on the part of Mr. Alcantara, the responding party asserts that it is likely that many or all of the employees who signed membership evidence did so because they were afraid of the consequences if they did not become members of the applicant.

14. The responding party submits that as a result of Mr. Alcantara's improper activity, there is at least a reasonable likelihood that the membership evidence filed in support of the application does not reflect the true wishes of the employees. Citing sections 11.1, 15, 70, 72 and 76 of the Act, the responding party submits that this application should therefore be dismissed.

15. While it cites the unfair practice provisions of the Act, the responding party has not filed an unfair practice application in connection with this application. No post-vote submissions have been received from employees in the proposed bargaining unit.

16. With these material facts in mind, the Board now turns to its analysis of the applicant's request.

ANALYSIS

17. As noted above, the applicant requests that the Board exercise its discretion not to inquire into the responding party's allegations or, alternatively, that they be dismissed for failing to establish a *prima facie* case and due to a lack of adequate particulars. The Board will first

address the applicant's request to dismiss the responding party's allegations on a *prima facie* basis.

Has the Responding Party Established a *Prima Facie* Case?

The Positions of the Parties

18. The applicant submits that the responding party's allegations should be dismissed for failing to reveal a *prima facie* case for the remedy requested (the dismissal of the application). According to the applicant, even if all of the facts stated by the responding party are assumed to be true and provable, they do not meet the required threshold.

19. The applicant relies on the following decisions of the Board: *United Food and Commercial Workers International Union v Burt Transportation Service Ltd.*, 2012 CanLII 43859 (ON LRB); *International Union of Operating Engineers, Local 793 v 955140 Ontario Inc. (Pickard Construction)*, 2015 CanLII 16100 (ON LRB); *Service Employees International Union Local v Sunrise of Unionville*, 2007 CanLII 4715 (ON LRB); *National Automobile, Aerospace, Transportation and General Workers Union of Canada (CAW-Canada) v Mews Chevrolet Ltd.*, 2006 CanLII 7751 (ON LRB); *Amalgamated Clothing and Textile Workers Union v Addidas Textile (Canada) Ltd.*, 1980 CanLII 752 (ON LRB); *United Steelworkers of America v Consumers Distributing*, 1995 CanLII 9966 (ON LRB); *United Food & Commercial Workers International Union, Local 175 v Vic Murai Holdings Ltd*, 1996 CanLII 11176 (ON LRB).

20. For its part, the responding party submits that its pleadings do in fact demonstrate a *prima facie* case.

21. The responding party relies on the following decisions of the Board: *Pickard Construction*, [2015] O.L.R.D. No. 772; *Pickard Construction*, [2015] O.L.R.D. No. 1435; *Limen Group*, [2015] O.L.R.D. No. 1128; *Miller Paving Northern*, [2017] O.L.R.D. No. 2935; *Benjamin Hotel*, [2017] O.L.R.D. No. 609; *Delsan Contracting*, [2000] O.L.R.D. No. 3119; *Euro-Can Masonry*, [2011] O.L.R.D. No. 2645; *V.H.L. Developments*, [2010] O.L.R.D. No. 890; *Veres Wire Industries*, [1976] O.L.R.B. Rep. 337.

Procedural Issue

22. The responding party's request that the Board dismiss this application was first made in its response and subsequently maintained in its post-vote submissions. The applicant's position that the responding party has failed to establish a *prima facie* case for the remedy requested was based on those two pleadings.

23. During the CMH, the Board heard submissions from the parties about what was needed to litigate the issues related to the applicant's position. The Board decided that it would do so by way of written submissions according to an agreed-upon schedule which contemplated, in this order, any additional written submissions from the applicant, a response from the responding party and reply submissions from the applicant.

24. The applicant submits that the responding party has, in its response submissions, attempted to supplement the pleadings it set out in its response to the application and post-vote submissions by filing new documents and asserting new facts. The pleadings at issue generally relate to Mr. Alcantara's supervisory powers and alleged history of favouritism as well as the applicant's representative having inquired whether he would be attending the off-site meeting referenced in paragraph 11 above.

25. The Board is prepared to accept the documents filed by the responding party. While it would have been preferable for these to have been filed with the post-vote submissions, the documents support facts set out in the responding party's response and post-vote submissions. Moreover, the applicant has had the opportunity to address these in its reply submissions.

26. The Board is not prepared to do the same in respect of the additional facts pled by the responding party. As noted above, the applicant's *prima facie* motion is based on the responding party's response and post-vote submissions and it is on the basis of those pleadings that the motion must be determined.

The Law & The Board's Discretion to Dismiss

27. The responding party relies on sections 11.1, 15, 70, 72 and 76 of the Act in support of its request that this application be dismissed. Before turning to the principles which govern the exercise of the Board's discretion to dismiss an application, it is necessary to set out these

sections in detail in order to determine if the responding party has established a *prima facie* case for the remedy it requests.

28. Section 11.1 of the Act states as follows:

11.1 (1) Subsection (2) applies where a trade union, council of trade unions or person acting on behalf of a trade union or council of trade unions contravenes this Act and, as a result, the true wishes of the employees in the bargaining unit were not likely reflected in a representation vote.

(2) In the circumstances described in subsection (1), on the application of an interested person, the Board may, despite subsection 10 (1),

(a) order that another representation vote be taken and do anything to ensure that the representation vote reflects the true wishes of the employees in the bargaining unit; or

(b) dismiss the application for certification if no other remedy would be sufficient to counter the effects of the contravention.

29. Section 15 of the Act states:

15 The Board shall not certify a trade union if any employer or any employers' organization has participated in its formation or administration or has contributed financial or other support to it or if it discriminates against any person because of any ground of discrimination prohibited by the *Human Rights Code* or the *Canadian Charter of Rights and Freedoms*.

30. Section 70 of the Act states:

70 No employer or employers' organization and no person acting on behalf of an employer or an employers' organization shall participate in or interfere with the formation, selection or administration of a trade union or the representation of employees by a trade union or contribute financial or other support to a trade union, but nothing in this section shall be deemed to deprive an employer of the employer's freedom to express views so long as the employer does not use coercion, intimidation, threats, promises or undue influence.

31. Section 72 of the Act states:

72 No employer, employers' organization or person acting on behalf of an employer or an employers' organization,

(a) shall refuse to employ or to continue to employ a person, or discriminate against a person in regard to employment or any term or condition of employment because the person was or is a member of a trade union or was or is exercising any other rights under this Act; or

(b) shall impose any condition in a contract of employment or propose the imposition of any condition in a contract of employment that seeks to restrain an employee or a person seeking employment from becoming a member of a trade union or exercising any other rights under this Act; or

(c) shall seek by threat of dismissal, or by any other kind of threat, or by the imposition of a pecuniary or other penalty, or by any other means to compel an employee to become or refrain from becoming or to continue to be or to cease to be a member or officer or representative of a trade union or to cease to exercise any other rights under this Act.

32. Finally, section 76 of the Act states:

76 No person, trade union or employers' organization shall seek by intimidation or coercion to compel any person to become or refrain from becoming or to continue to be or to cease to be a member of a trade union or of an employers' organization or to refrain from exercising any other rights under this Act or from performing any obligations under this Act.

33. The applicant's request that the Board exercise its discretion to dismiss the responding party's allegations is based on Rule 39.1 of its Rules of Procedure. Rule 39.1 states as follows:

39.1 Where the Board considers that an application does not make out a case for the orders or remedies requested, even if all of the facts stated in the application are assumed to be true, the Board may dismiss the application without a hearing or consultation. In its decision, the Board will set out its reasons.

34. In the assessment of whether a complaint makes out a case for the order or remedies requested (commonly referred to as a *prima facie* case), the Board has regard only to the allegations of fact set out by the party seeking the remedy in question (as well as any agreed or undisputed facts) and takes these as true and provable. The Board determines if, based on such facts, the invoking party has established an arguable case (see *J. Paiva Foods Ltd.*, [1985] OLRB Rep. May 690).

35. The Board will not dismiss a complaint for the failure to demonstrate a *prima facie* case unless it is clear, or plain and obvious, that the complaint has no reasonable chance of success for establishing a violation of the Act based on the allegations made (see *Corporation of the County of Brant*, [2000] OLRB Rep. Nov./Dec. 1106).

36. With the above principles in mind, the Board must now determine if the responding party has established a *prima facie* case for the dismissal of the application based on Mr. Alcantara's involvement.

The Board's Decision

37. In its response and post-vote submissions, the responding party states that it relies on sections 11.1, 15, 70, 72 and 76 of the Act in support of its request that this application be dismissed because of Mr. Alcantara's involvement.

38. The Board will first address sections 11.1 and 76.

Sections 11.1 and 76 of the Act

39. As is apparent on a plain reading, a party invoking section 11.1 must establish that (i) the trade union (or a person acting on its behalf) has contravened the Act and (ii) that the effect of the contravention is that the true wishes of the employees in the bargaining unit were not likely reflected in the representation vote.

40. Turning to the first component of section 11.1, can it be said that the responding party has established, on a *prima facie* basis, that the applicant, through Mr. Alcantara, has contravened the Act?

41. On this question, the challenge for the Board is that the responding party has not expressly cited which provision of the Act has been contravened for the purposes of section 11.1. However, as section

76 is the only section relied upon by the responding party which applies to a trade union or a person acting on its behalf, this is the only section the Board may consider to answer this question.

42. Much like section 11.1, there are two pre-requisites to a finding that section 76 has been breached: (i) the alleged misconduct must be coercive or intimidatory and (ii) it must be designed or intended to compel an employee to act in a particular way vis-à-vis the exercise of rights under the Act (see: *Sunrise of Unionville, supra*).

43. With these considerations in mind, has the responding party, based on the facts pled in its response and post-vote submissions, established a *prima facie* case that Mr. Alcantara's alleged misconduct contravened section 76? For the following reasons, the Board is unable to reach this conclusion.

44. The responding party's response and post-vote submissions do not go as far as saying that Mr. Alcantara's actions were coercive or intimidatory (although it makes this assertion in response to the applicant's *prima facie* motion). Rather, based on a description of Mr. Alcantara's duties, his history of favouritism and his repeated encouragement to employees that they join a union, the responding party is effectively asking the Board to arrive at this conclusion by relying on section 76.

45. For example, the responding party does not assert that Mr. Alcantara advised employees that they were required to join the union or that adverse consequences would result from a decision not to.

46. By way of further example, the responding party does not assert that Mr. Alcantara actively assisted the applicant's organizing efforts by accompanying employees to meetings with the applicant or that he was involved in setting up such meetings or in the securing of membership evidence. Moreover, the responding party does not assert that all or some of the employees became members of the applicant as a result of his statements.

47. The responding party states that given Mr. Alcantara's actions, it is "likely" that employees in the proposed bargaining unit signed membership evidence because they were afraid of the consequences which would attach from declining to do so contrary to the "exhortations" of Mr. Alcantara. Other than those which relate to Mr.

Alcantara's statements to employees that they should join a union, the responding party does not provide any detail with respect to these.

48. Ultimately, and again based on the facts pled, the only conduct of Mr. Alcantara that the responding party has pointed to are his statements to employees that they should join a union and that he knew someone. Without more, the Board cannot conclude that this conduct was coercive or intimidatory simply because of Mr. Alcantara's responsibilities with the responding party.

49. The responding party relies on decisions of the Board in *Pickard Construction, supra*, in which the employer's description of the conduct of a managerial employee was sufficient to proceed to a hearing on its request to dismiss one of two applications before the Board.

50. In these decisions, the impugned conduct went beyond the conduct alleged in this application; the managerial employee in question accompanied employees to meetings with the union and they became members after the meetings. The managerial employee was also found to have told an employee that future job security was dependent on the employee becoming a member. The Board also notes that because the applications were brought under section 128.1 of the Act, the wishes of the employees had not been tested through a representation vote.

51. In this application, the responding party has not pled facts which would lead the Board to arrive at the conclusion that Mr. Alcantara's conduct was coercive or intimidatory contrary to section 76 of the Act.

52. For these reasons, the Board concludes that the responding party, based on the facts pled, has failed to satisfy the first step of the test under section 11.1 of the Act.

53. While the Board's conclusion above is sufficient to dispose of the section 11.1 issue, the Board must also conclude that the responding party has failed to demonstrate a *prima facie* case in respect of the second step of the test under section 11.1, namely, that the true wishes of the employees in the bargaining unit were not likely reflected in a representation vote.

54. As the Board noted in *Burt Transportation Ltd., supra*, the Board's focus is on objective facts in determining whether in the circumstances, the challenged statements or actions are of such a

nature that they would deprive employees of their ability to express their true wishes.

55. In its response and post-vote submissions, the responding party complains of Mr. Alcantara's conduct up to the filing of the application. There are no allegations of improper conduct following the filing of the application.

56. The responding party states that it is "likely" that those who signed membership evidence did so because they were afraid of the consequences rather than freely choosing to become members of the applicant. However, the responding party does not plead any objective facts that the employees were deprived of their ability to express their true wishes in the secret ballot vote which was conducted. On this point, it is significant to the Board that no post-vote submissions were received from employees in the bargaining unit.

57. In *Mews Chevrolet, supra*, the Board declined to exercise its jurisdiction to dismiss an application for certification pursuant to section 11.1 based on allegations of intimidation by the union and its inside organizers. The Board found that the impugned actions were for the purposes of obtaining a representation vote and "would have no effect on the final secret ballot cast by an employee."

58. In this application, the bargaining unit employees voted in a secret ballot vote. The responding party has not pled any facts to support its conclusion that their true wishes were not reflected in the representation vote. Put another way, the responding party has not explained how Mr. Alcantara could dispense adverse treatment to employees who voted against representation by the applicant when the identity of these employees was not (and could not be) available to him.

59. Without more, and having regard only to the facts alleged by the responding party in its response and post-vote submissions, the Board must conclude that there is no reasonable likelihood that the requirements of section 11.1 can be established on the facts alleged. Even if true and provable, there is no indication that employees were deprived of their ability to express their true wishes at the vote stage of this application.

60. The Board will now address the responding party's reliance on sections 15, 70 and 72 of the Act in support of its request to dismiss this application.

Sections 15, 70 and 72 of the Act

61. Much as is the case with its reliance on section 76, addressed above, the responding party's response and post-vote submissions do not go as far as saying that a breach of sections 15, 70 or 72 has occurred. Rather, the responding party is effectively asking the Board to arrive at this conclusion by relying on these sections.

62. Sections 15, 70 and 72 of the Act apply to employers and employer organizations, and, in the case of sections 70 and 72, also to those acting on their behalf.

63. Turning first to section 15, the Board has previously found that its purpose is to maintain the necessary arm's length relationship between employers on the one hand and trade unions, as representatives of the employees, on the other (see *Addidas Textile (Canada) Ltd., supra*). In a section 15 analysis, the Board will also be concerned with whether certain actions of the employer tend to reduce or eliminate the right of employees to freely decide whether or not to be represented by a trade union (see *V.H.L. Developments, supra*).

64. However, the Board has previously rejected the proposition that the mere involvement of a supervisory or managerial employee will trigger the application of section 15. As the Board stated in *United Brotherhood of Carpenters and Joiners of America, Local 1946 v. VanderWal Homes & Commercial Group*, 2011 CanLII 75806 (ON LRB):

The concern about the establishment of "sweetheart unions", which underlies the authority granted to the Board under section 15 of the Act to dismiss an application, does not arise in circumstances where a manager or foreman was clearly acting contrary to the employer's interests and would have been seen to be so motivated by any employee. As noted in *National Dry Company Ltd.*, [1980] OLRB Rep. Aug. 1217, at para 12, "[w]hen that is the case the section [15] bar to certification does not arise and there is no reason to presume, absent substantial evidence to the contrary, that the employees were subjected to undue influence in their decision to join a union."

65. Put another way, for section 15 to apply, a managerial or supervisory employee must be acting on behalf of the employer (or reasonably be perceived to be doing so).

66. The underlying purpose of section 15 must guide the Board's determination of whether the responding party has established a *prima facie* breach of this section.

67. In its response and post-vote submissions, the responding party neither expressly states how Mr. Alcantara's actions amount to a breach of this section nor (perhaps obviously) does it assert that he was acting on its behalf. For that matter, it is apparent to the Board that the responding party views him as having acted contrary to its interests.

68. The responding party effectively asks the Board to accept that Mr. Alcantara's actions as a managerial employee trigger the application of section 15 absent any indication that he was acting on its behalf. As noted above, this is a proposition which the Board has previously rejected.

69. In any event, as noted in the Board's section 11.1 analysis above, there is nothing in the facts pled by the responding party to suggest that Mr. Alcantara made any threats, or engaged in any coercive or unduly influential conduct, that might cause the Board to question the voluntariness of the membership evidence.

70. The responding party relies on *Euro-Can Masonry, supra*, where the Board questioned the membership evidence despite the absence of anything to suggest that evidence was obtained by threat, intimidation or undue influence. However, the Board's conclusion was driven by the fact that the employer's principal signed a membership card in the presence of the two other members of the proposed bargaining unit and that these individuals may have signed their cards to please the principal.

71. Moreover, unlike this application, no representation vote had been conducted because the application was brought under section 128.1. The Board ultimately directed one to ensure the true wishes of the bargaining unit were known.

72. The responding party also relies on *V.H.L. Developments, supra*. In this case, the Board exercised its discretion to direct a representation vote in another card-based application for certification. However, it did so based on a concern about the true wishes of employees arising from a threat to job security while at the same time finding no employer support contrary to section 15.

73. In this application, the responding party does not plead any facts which, if true and provable, establish a *prima facie* breach of section 15. There is no express or implied indication that Mr. Alcantara was acting on behalf of the responding party when he suggested to employees that they join a union. Rather, the facts asserted point to the conclusion that Mr. Alcantara's actions were contrary to the responding party's interests which, as noted above, does not trigger the application of section 15.

74. In relying on section 15 (rather than expressly alleging a breach of this section), the responding party is asking the Board to dismiss the application based, effectively, on its own actions, despite not pleading any facts that Mr. Alcantara was acting on its behalf.

75. For the above reasons, the Board concludes that there is no reasonable likelihood that the responding party can establish a breach of section 15 of the Act based on the facts pled in its response and post-vote submissions. Accordingly, the responding party has failed to demonstrate a *prima facie* breach of section 15 of the Act.

76. The responding party also relies on sections 70 and 72 of the Act in support of its position. These sections prohibit employers from committing unfair practices, though the Board notes that, while not determinative, the responding party has not filed an unfair practice complaint further to section 96 of the Act.

77. Other than relying on these sections, the responding party does not expressly allege a breach of these sections. Nor does the responding party allege that, or explain how, Mr. Alcantara was acting on its behalf when suggesting to employees that they join a trade union.

78. Taken at their highest, the responding party asks the Board to arrive at these conclusions on its own in light of the material facts alleged. However, much as is the case with section 15, above, the material facts pled by the responding party do not support the conclusion that Mr. Alcantara was acting on its behalf.

79. For these reasons, the Board is compelled to conclude that the responding party has failed to demonstrate a *prima facie* breach of sections 70 and 72 of the Act.

Conclusion on the Applicant's *Prima Facie* Motion

80. The responding party says that the actions of Mr. Alcantara were "inherently intimidating and coercive" and that this individual acted as the applicant's "inside organizer." For these reasons, the responding party requests that the Board dismiss this application based on sections 11.1, 15, 70, 72 and 76 of the Act.

81. The material facts pled in support of the responding party's request consist of a description of Mr. Alcantara's responsibilities, a past history of favouritism, and reports that he suggested to employees, up to the filing of this application, that they join a union. The responding party also states that one of the applicant's representatives asked about Mr. Alcantara's whereabouts at an off-site meeting with employees.

82. There is no more; the responding party does not state that Mr. Alcantara attended or escorted employees to meetings with the applicant, nor does it state that he threatened adverse consequences if employees did not become members or that he promised advantages to those who did. There is no suggestion that Mr. Alcantara actualized adverse consequences for those who did not become members, that his conduct post-dated the filing of the application or that it had any impact on the secret ballot vote.

83. The employees ultimately voted in a secret ballot vote. Any doubt about their true wishes prior to the filing of the application would have been resolved at this stage.

84. Accordingly, for all these reasons and notwithstanding the thorough submissions of the responding party, the Board is compelled to agree with the applicant that the responding party has failed to demonstrate a *prima facie* case.

85. In light of this conclusion, it is not necessary for the Board to address the applicant's request that the Board exercise its discretion not to inquire into the application or that it be dismissed due to a lack of adequate particulars.

86. The Board will now address the applicant's request for a certificate following the representation vote.

The Applicant's Request for a Certificate

87. Having regard to the agreement of the parties, the Board finds that the following constitutes a unit of employees of the responding party appropriate for collective bargaining:

all employees of Honeybee Foods Corporation c.o.b. as Jollibee, located at 79 Billy Bishop Way, in the City of Toronto, save and except Managers, Supervisors and persons above the rank of Supervisor.

88. On the taking of the representation vote directed by the Board, more than 50% of the ballots cast by employees in the bargaining unit were cast in favour of the applicant.

89. The responding party provided notice pursuant to section 8.1 of the Act in its response regarding the applicant's estimate of the number of individuals in the proposed bargaining unit. As the Board (differently constituted) found in its March 23, 2020 decision, the applicant has established sufficient membership support in its proposed bargaining unit for the purposes of obtaining a representation vote and having that voted counted.

90. A certificate will issue to the applicant.

91. The Registrar will destroy the ballots cast in the representation vote taken in this matter following the expiration of 30 days from the date of this decision unless a statement requesting that the ballots should not be destroyed is received by the Board from one of the parties before then.

92. The responding party is directed to post copies of this decision immediately, adjacent to all copies of the "Notice of Vote" posted previously. These copies must remain posted for a period of 45 business days.

"Michael McCrory"
for the Board



ONTARIO LABOUR RELATIONS BOARD

OLRB Case No: 3497-19-R

United Food and Commercial Workers International Union, Local 175, Applicant v Honeybee Foods Canada Corporation c.o.b. as Jollibee, Responding Party

CERTIFICATE

The Board certifies:

United Food and Commercial Workers International Union, Local 175

as the bargaining agent for the following bargaining unit:

all employees of Honeybee Foods Corporation c.o.b. as Jollibee, located at 79 Billy Bishop Way, in the City of Toronto, save and except Managers, Supervisors and persons above the rank of Supervisor.

This certificate is subject to the terms and qualifications set out in the Board's Decision(s) in this matter.

DATED: July 13, 2020

ONTARIO LABOUR RELATIONS BOARD



A handwritten signature in black ink that reads "Catherine Gilbert".

Catherine Gilbert

Registrar

APPENDIX A

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