

SUPREME COURT OF NOVA SCOTIA

Citation: Granite Environmental Inc. v. Nova Scotia (Labour Relations Board), 2004 NSSC 264

Date: 20041216

Docket: SH 206862

Registry: Halifax

Between:

Granite Environmental Incorporated

Applicant

v.

Nova Scotia Labour Relations Board and International
Union of Operating Engineers Local 721

Respondent

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Judge: The Honourable Justice Suzanne M. Hood

Heard: August 4, 2004

Written Decision: December 16, 2004

Subject: Labour relations; certification under Part II, *Trade Union Act*

Summary: The Labour Relations Board (Construction Industry Panel) certified operating engineers employed by Granite Environmental Ltd. Granite seeks to quash the decision. The International Union of Operating Engineers, Local 721, opposes the application.

Issue: Should the decision of the Labour Relations Board (Construction Industry Panel) be set aside because it committed a reviewable error when: a) it included employees in a bargaining unit on the basis of spending the majority of the working day “on site” doing bargaining unit work; b) it excluded Wayne Best from the bargaining unit on the basis that he was a managerial employee; and c) it included Bob Dennis in the bargaining unit on the basis of that the majority of his working day was spent doing bargaining unit work?

- Result:**
- a) Patently unreasonable. Result is almost absurd in that employee who spends only a small part of his or her working day doing construction industry work could be a member of a construction industry trade union.
 - b) Not patently unreasonable. There was evidence upon which Panel could conclude Best was a managerial employee.
 - c) Patently unreasonable for 2 reasons:
 - (I) as in (a) above; and
 - (ii) there was no evidence upon which Panel could base its decision to add additional time to bargaining unit work.

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