

Court File No.:

FEDERAL COURT OF APPEAL

BETWEEN:

CANADIAN AIRPORT WORKERS UNION

Applicant

-and-

**INTERNATIONAL ASSOCIATION OF MACHINISTS AND AEROSPACE WORKERS
and GARDA SECURITY SCREENING INC.**

Respondent

APPLICATION UNDER under section 18.1(1) of the *Federal Courts Act*, R.S.C., 1985, c. F-7

NOTICE OF APPLICATION

TO THE RESPONDENT:

A PROCEEDING HAS BEEN COMMENCED by the applicant. The relief claimed by the applicant appears on the following page.

THIS APPLICATION will be heard by the Court at a time and place to be fixed by the Judicial Administrator. Unless the Court orders otherwise, the place of hearing will be as requested by the applicant. The applicant requests that this application be heard at Ottawa.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or a solicitor acting for you must prepare a notice of appearance in Form 305 prescribed by the Federal Courts Rules and serve it on the applicant's solicitor, or where the applicant is self-represented, on the applicant, WITHIN 10 DAYS after being served with this notice of application.

Copies of the Federal Courts Rules information concerning the local offices of the Court and other necessary information may be obtained on request to the Administrator of this Court at Ottawa (telephone 613-992-4238) or at any local office.

IF YOU FAIL TO OPPOSE THIS APPLICATION, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

DATE : _____

Issued by : _____
(Registry Officer)

Federal Court of Appeal
Thomas D'Arcy McGee Building
90 Sparks Street, 5th Floor
Ottawa, Ontario
K1A 0H9

TO:

International Association of Machinists and Aerospace Workers

18 Wynford Drive, Suite 310
Toronto, ON
M3C 3S2

Garda Security Screening Inc.

c/o Mr. Asad Niyaz
Human Resources and Labour Relations Manager
Garda Security Screening Inc.
6300 Silver Dart Drive
Mississauga, ON
L5P 1B2

Canada Industrial Relations Board

C.D. Howe Building
240 Sparks Street, 4th Floor West
Ottawa, ON
K1A 0X8

APPLICATION

This is an application for judicial review in respect of the decision of the Canada Industrial Relations Board (the “*Board*”) dated May 4, 2018 (Document No.: 561812) in an unfair labour practice complaint (Board File: 32451-C) pursuant to section 97(1) of Part I of the *Canada Labour Code* (the “*Code*”) and an application for certification (Board File: 32452-C) pursuant to section 24(1) of Part I of the *Code*, filed by the Canadian Airport Workers Union (“*CAWU*”).

The applicant makes application for:

- (a) An order quashing the May 4, 2018 decision of the Board and remitting the matter back to a different panel of the Board for a re-determination;
- (b) Costs; and
- (c) Such further relief as counsel requests and this Honourable Court deems just.

The grounds for the application are:

- (a) The Board failed to observe the principals of natural justice and procedural fairness in relying on the confidential report of the Industrial Relations Officer (“*IRO*”) to conclude that there were significant irregularities in *CAWU*’s membership evidence, and that those irregularities amounted to a substantive defect, without providing *CAWU* with (i) any particulars of the alleged irregularities; or, (ii) any opportunity to respond to the alleged irregularities.
- (b) The Board failed to observe the principals of natural justice and procedural fairness by failing to ensure that a balanced, fair and sufficient investigation was conducted by the *IRO* into the issue of alleged irregularities in *CAWU*’s membership evidence;
- (c) The Board erred in law by refusing to exercise its broad discretion under section 29(1) of the *Code* to order a representation vote in response to the findings contained in the *IRO*’s confidential report;
- (d) The Board failed to observe the principals of natural justice and procedural fairness in refusing to grant the *CAWU*’s request for the production of documents that were clearly relevant to a determination of the size of the bargaining unit that was potentially affected by the aforementioned Board applications;
- (e) Section 18 of the *Federal Courts Act*, relevant provisions of the *Code*, including sections 16 and 22, and section 35 of the *Canada Industrial Relations Board Regulations*;