

CENTRAL ARBITRATION COMMITTEE
TRADE UNION AND LABOUR RELATIONS (CONSOLIDATION) ACT 1992
SCHEDULE A1 - COLLECTIVE BARGAINING: RECOGNITION
DECLARATION OF RECOGNITION WITHOUT A BALLOT

The Parties:

RMT

and

CGL Rail

Introduction

1. RMT (the Union) submitted an application to the CAC dated 11 April 2018 that it should be recognised for collective bargaining by CGL Rail (the Employer) for a bargaining unit comprising “General Operations Technicians and Systems Technicians employed by CGL Rail on the Docklands Light Railway contract” based on the Docklands Light Railway in London. The application was received by the CAC on 13 April 2018. The CAC gave both parties notice of receipt of the application on 13 April 2018. The Employer submitted a response to the CAC dated 20 April 2018 which was copied to the Union.

2. In accordance with section 263 of the Trade Union and Labour Relations (Consolidation) Act 1992 (the Act), the CAC Chairman established a Panel to deal with the case. The Panel consisted of Professor Kenneth Miller, Chair of the Panel, and, as Members, Mr Roger Roberts and Mr. Paul Noon OBE. The Case Manager appointed to support the Panel was Linda Lehan.

3. By a decision dated 4 May 2018, the Panel accepted the Union’s application. As the bargaining unit had been agreed by the parties, the Panel instructed the Case Manager to ascertain whether the Union claimed that it had a majority of the workers in the bargaining unit as its members and should therefore be granted recognition without a ballot and, if it did

so claim, to seek submissions from the Employer on whether or not a ballot should be held.

Issues

4. Paragraph 22 of Schedule A1 to the Act (the Schedule) provides that if the CAC is satisfied that a majority of the workers constituting the bargaining unit are members of the union, it must issue a declaration of recognition under paragraph 22(2) unless any of the three qualifying conditions specified in paragraph 22(4) applies. Paragraph 22(3) requires the CAC to hold a ballot even where it has found that a majority of workers constituting the bargaining unit are members of the union if any of these qualifying conditions is fulfilled. The three qualifying conditions are:

- (i) the CAC is satisfied that a ballot should be held in the interests of good industrial relations;**
- (ii) the CAC has evidence, which it considers to be credible, from a significant number of the union members within the bargaining unit that they do not want the union (or unions) to conduct collective bargaining on their behalf;**
- (iii) membership evidence is produced which leads the CAC to conclude that there are doubts whether a significant number of the union members within the bargaining unit want the union (or unions) to conduct collective bargaining on their behalf. Paragraph 22(5) states that "membership evidence" is (a) evidence about the circumstances in which union members became members, or (b) evidence about the length of time for which union members have been members, in a case where the CAC is satisfied that such evidence should be taken into account.**

The Union's claim to majority membership

5. In a letter dated 4 May 2018 the Union was asked by the CAC if it claimed majority membership within the bargaining unit, and if so, whether it submitted that it should be recognised without a ballot. By an email dated 4 May 2018 the Union claimed that it had majority membership within the bargaining unit and requested the CAC Panel award recognition for collective bargaining purposes without a ballot.

6. On 4 May 2018 the Union's email was copied to the Employer and it was invited to make submissions on the Union's claim to majority membership and the three qualifying conditions specified in paragraph 22(4) of the Schedule.

The views of the Employer

7. No comments were received from the Employer.

Considerations

8. As set out in paragraph 4 above, the Act requires the Panel to consider whether it is satisfied that the majority of the workers constituting the bargaining unit are members of the Union. If the Panel is satisfied that the majority of the workers constituting the bargaining unit are members of the Union, it must then decide if any of the three conditions in paragraph 22(4) is fulfilled. If the Panel considers that any of them is fulfilled it must give notice to the parties that it intends to arrange for the holding of a secret ballot.

9. A membership check carried out by the Case Manager for the purposes of the Panel's decision on acceptance, the result of which was reported to the Panel and the parties on 25 April 2018, showed that 18 of the 22 workers in the bargaining unit were members of the Union, a membership level of 81.82%. In the absence of any evidence to the contrary, the Panel is satisfied that the majority of the workers in the bargaining unit are members of the Union.

Paragraph 22(4) (a)

10. The first condition is that the Panel is satisfied that a ballot should be held in the interests of good industrial relations. In this case neither party has submitted evidence that holding a secret ballot would be in the interests of good industrial relations. The Panel is therefore satisfied that this condition does not apply.

Paragraph 22(4) (b)

11. The second condition is that the CAC has evidence, which it considers to be credible, from a significant number of the union members within the bargaining unit that they do not want the union to conduct collective bargaining on their behalf. The Panel is satisfied that this condition does not apply as no evidence on this issue was produced to the Panel.

Paragraph 22(4) (c)

12. The third condition is that membership evidence is produced which leads the CAC to conclude that there are doubts whether a significant number of the union members within the bargaining unit want the union to conduct collective bargaining on their behalf. No such evidence has been produced, and therefore the Panel is satisfied that this condition does not apply.

Declaration of recognition

13. The Panel is satisfied in accordance with paragraph 22(1)(b) of the Schedule that the majority of the workers constituting the bargaining unit are members of the Union. The Panel is satisfied that none of the conditions in paragraph 22(4) of the Schedule are met. Pursuant to paragraph 22(2) of the Schedule, the CAC must issue a declaration that the Union is recognised as entitled to conduct collective bargaining on behalf of the workers constituting the bargaining unit. The CAC accordingly declares that the Union is recognised by the Employer as entitled to conduct collective bargaining on behalf of the bargaining unit comprising “General Operations Technicians and Systems Technicians employed by CGL Rail on the Docklands Light Railway contract” based on the Docklands Light Railway in London”.

Panel

Professor Kenneth Miller, Chair of the Panel

Mr Roger Roberts

Mr Paul Noon OBE

15 May 2018