

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

The Parties:

Unite the Union

and

American Airlines

Introduction

1. Unite the Union (the Union) submitted an application to the CAC dated 15 March 2016 that it should be recognised for collective bargaining by American Airlines (the Employer) for a bargaining unit comprising “All Aircraft Maintenance Technicians employed at Heathrow Airport”. The application was received by the CAC on 16 March 2016 and the CAC gave both parties notice of receipt of the application that day. The Employer submitted a response to the CAC dated 23 March 2016 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 Gillian Morris, the Panel Chair, and, as Members, Mr Mike Cann and Mr David Coats. The Case Manager appointed to support the Panel was Nigel Cookson.

3. By a decision dated 29 March 2016 the Panel accepted the Union’s application. The parties then entered a period of negotiation in an attempt to reach agreement on the appropriate

bargaining unit. As no agreement was reached, the parties were invited to supply the Panel with, and to exchange, written submissions relating to the question of the determination of the appropriate bargaining unit. In a decision dated 17 May 2016 the Panel decided that the appropriate bargaining unit was that proposed by the Union in its application. For the purposes of that decision Mr Bryan Taker deputised for Mr Mike Cann.

Issues for the Panel

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 the workers constituting the bargaining unit are members of the union if any of these qualifying conditions is fulfilled. The three qualifying conditions are:

- a) the CAC is satisfied that a ballot should be held in the interests of good industrial relations;
- b) 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;
- c) 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.

The Union's claim to majority membership

5. In a letter to the Case Manager dated 18 May 2016 the Union stated that it had majority membership within the bargaining unit and submitted that it should, therefore, be granted

recognition without a ballot being held. The Union said that it had attached to its letter the results of a membership check carried out by Acas on 11 February 2016¹ which it said showed that there were 33 members in the bargaining unit, which constituted 75% of the employees in the bargaining unit.² The Union stated that since then a further three members had joined the Union so that there were 36 members in the bargaining unit which constituted 82% of the bargaining unit.³

6. The Union submitted that, in the circumstances, none of the conditions specified in paragraph 22(4) of the Schedule was fulfilled.

The Employer's submissions on the Union's claim to majority membership and the qualifying conditions

7. In a letter from the Case Manager dated 18 May 2016 the Employer was invited to comment on the Union's claim to majority membership and the qualifying conditions set out in paragraph 4 above.

8. In a letter to the Case Manager dated 23 May 2016 the Employer stated that, based on the assessment performed by Acas on 11 February 2016, it had no reason to dispute the Union's claim to majority membership. The Employer stated that it did not, therefore, believe that a ballot would be necessary.

Considerations

9. The Schedule 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

¹ No Acas report was, in fact, attached to the Union's letter as received by the CAC.

² The CAC calculates this figure as 78.57% of the bargaining unit.

³ The CAC calculates this figure as 85.71% of the bargaining unit.

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.

10. Both parties accept the findings of a report compiled by Acas on 11 February 2016. The Union has stated that this report established that there were 33 members of the Union in the bargaining unit of 42 workers. The Panel has not seen a copy of the Acas report but is prepared to accept the evidence of both parties that it demonstrated that a majority of the workers in the bargaining unit were members of the Union. The Union has stated that since that time a further three members of the bargaining unit have joined the Union, bringing the membership total to 36. On May 23 2016 the Employer stated that, based on the Acas assessment, it had no reason to dispute the Union's claim to majority membership. The Panel has no evidence that any workers have left the bargaining unit, or any joined, since the Acas check was conducted. Therefore, 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.

11. The Panel must now consider whether any of the three qualifying conditions laid down in in paragraph 22(4) of the Schedule is fulfilled.

12. The first condition is that the Panel is satisfied that a ballot should be held in the interests of good industrial relations. Neither the Employer nor the Union considers a ballot to be necessary and the Panel has come to the view that it is not satisfied that a ballot should be held in the interests of good industrial relations. The Panel is therefore satisfied that this condition does not apply.

13. 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 has received no such evidence and is therefore satisfied that this condition does not apply.

14. 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 the Panel is therefore satisfied that this condition does not apply.

Declaration of recognition

15. 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 is fulfilled. 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 “All Aircraft Maintenance Technicians employed at Heathrow Airport”.

Panel

Professor Gillian Morris, Panel Chair

Mr Mike Cann

Mr David Coats

27 May 2016