

23 September 2014

CENTRAL ARBITRATION COMMITTEE
TRADE UNION AND LABOUR RELATIONS (CONSOLIDATION) ACT 1992
SCHEDULE A1 - COLLECTIVE BARGAINING: RECOGNITION
DECLARATION THAT THE UNION IS NOT ENTITLED TO BE RECOGNISED

The Parties:

RMT
and
Epsom Coaches Group

Introduction

1. RMT (the Union) submitted an application to the CAC dated 23 June 2014 and received on 24 June 2014 that it should be recognised for collective bargaining by Epsom Coaches Group (the Employer) for a bargaining unit comprising “Bus Drivers employed with HR Richmond Limited T/A Epsom Coaches Group”. The location of the bargaining unit was given as HR Richmond Ltd, T/A Epsom Coaches Group, Roy Richmond Way, Epsom, Surrey, KT19 9AF. The CAC gave the parties notice of receipt of the application on 25 June 2014. The Employer submitted a response to the application on 1 July 2014.

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 Linda Dickens MBE, chairing the Panel, and, as Members, Mr Michael Shepherd and Mr Malcolm Wing. The case manager appointed to support the Panel was Adam Goldstein.

3. By its written decision dated 25 July 2014 the Panel accepted the Union's application. In its response to the Union's application, the Employer stated that it agreed the composition of the bargaining unit proposed by the Union and the Panel moved to the question of whether to hold a secret ballot pursuant to paragraphs 22 and 23 of the Schedule.

4. The first question to be determined was whether the CAC was satisfied that a majority of workers constituting the bargaining unit were members of the Union. Accordingly, the Union was asked, by a letter from the case manager dated 28 July 2014, whether it claimed that it had majority membership within the bargaining unit and therefore submitted that it should be granted recognition without a ballot. The Union sent a letter dated 29 July 2014 stating that the Union was not claiming recognition without the need ballot. The Panel therefore concluded that it was not satisfied that a majority of the workers constituting the agreed bargaining unit were members of the Union. Accordingly the Panel gave notice pursuant to paragraph 23(2) of the Schedule on 29 July 2014, that it intended to arrange for the holding of a secret ballot and the parties were asked for their views on the form the ballot should take. The Panel also advised the parties that it would wait until the end of the notification period of ten working days, as specified in paragraph 24(5) and 24(6), before arranging a secret ballot.

5. The notification period under paragraph 24(5) and 24(6) of the Schedule ended on 12 August 2014. The CAC was not notified by the Union or by both parties jointly that they did not want the ballot to be held, as per paragraph 24(2).

6. The Union stated its preference for a workplace ballot in a letter dated 31 July 2014. The Employer, in a letter dated 8 August 2014, also submitted that a workplace ballot was preferable. The Panel determined that the ballot should take the form of Combination ballot, being a workplace ballot with a postal element for those workers known in advance to be absent from the workplace on the day of the ballot. This decision was communicated to the parties in a letter dated 13 August 2014. The parties confirmed, on 13 August 2014, that they had reached agreement as to access during the balloting period.

The Ballot

7. Popularis was appointed as the Qualified Independent Person (QIP) to conduct the ballot on 15 August 2014 and the parties were notified in a letter of the same date. The parties were informed that the workplace ballot would take place on 10 September 2014 and that the postal ballot papers would be dispatched on 2 September 2014 to be returned by no later than 2pm on 16 September 2014, the date the ballot closed.

8. The QIP reported to the CAC on 16 September 2014 that, of the 277 workers in the bargaining unit, 244 had voted in the ballot and no ballot papers were spoilt. Ninety five (95) workers (38.93% of those voting) had voted to support the proposal that the Union should be recognised by the Employer, and 149 workers (61.07% of those voting) had voted to reject the proposal. The proportion of workers constituting the bargaining unit who supported the proposal was 34.3%.

Declaration that the Union is not entitled to be recognised

9. The ballot did not establish that a majority of workers who voted in the ballot supported the proposal that the Union be recognised by the Employer for the purposes of collective bargaining within the bargaining unit.

10. In accordance with paragraph 29(4) of the Schedule, the CAC declares that the Union is not recognised by the Employer as entitled to conduct collective bargaining on behalf of the bargaining unit.

Panel

Professor Linda Dickens MBE, CAC Deputy Chairman

Mr Michael Shepherd

Mr Malcolm Wing

23 September 2014