

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

The Parties:

Bakers Food and Allied Workers Union
(BFAWU)

and

Tulip Limited

Introduction

1. The Bakers Food and Allied Workers Union (the Union) submitted an application to the CAC dated 24 June 2015 that it should be recognised for collective bargaining purposes by Tulip Ltd (the Employer) for a bargaining unit comprising “all hourly paid workers employed at Mantle Lane, Coalville, Leicestershire, LE67 3DW within the following post/job titles:

- CV Production Op Cooked Meats;
- CV Production Op Uncured;
- CV Production Op Curing Room;
- CV Production Op Cutting Room;
- CV Production Op Despatch;
- CV Production Op High Risk;
- CV Production Op Hygiene;
- CV QA / Tech;
- CV Production Op Drivers and
- CV Stores”

adding “The Union does not seek recognition in relation to managers, and for clarity confirm

that the union considers the term ‘manager’ to cover team leader, line managers and supervisors”. The CAC gave both parties notice of receipt of the application on 26 June 2015. The Employer submitted a response to the CAC on 2 July 2015 which was cross 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 Her Honour Judge Stacey, Chairman of the Panel, and, as Members, Mr David Crowe and Ms Judy McKnight CBE. The Case Manager appointed to support the Panel was Miss Sharmin Khan and for the purpose of this decision Linda Lehan.

3. By a decision dated 11 August 2015, the Panel accepted the Union’s application. Following this decision, as the Employer had confirmed in its response to the application that it agreed with the proposed bargaining unit, 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 11 August 2015 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 a letter dated 12 August 2015 the Union stated that it noted that the acceptance decision recorded that the proposed bargaining unit was agreed and that 58.7% were members of the BFAWU. The Union stated that it was therefore claiming that it had majority membership and that it should be granted recognition without the need for a ballot. The Union further stated that it had received reports that the Employer was spreading unfounded scare stories about the consequence of recognition and would want to rebut any attempt to use that to suggest a lack of enthusiasm amongst the members concerned.

6. On 13 August 2015 the Union's letter 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. By a letter dated 13 August 2015 the Employer stated that the company confirmed that it did not challenge the Union's application and also confirmed that agreement on the bargaining unit was reached. The Employer stated that, as the CAC would be aware, it did not contest the Union's application. With regard to the Union's comments regarding it spreading unfounded scare stories about the consequences of recognition the Employer stated that that was not factually correct. The Employer explained that it had legitimately made employees aware of the alternatives to Trade Union recognition and reminded them of the work of their existing full Works Council and the benefits already provided to employees free of charge by Tulip Ltd.

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 30 July 2015, showed that 105 of the 185 workers in the bargaining unit were members of the Union, a membership level of 56.8%. 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.

10. The Panel has given thorough consideration to each of the qualifying conditions laid down in paragraph 22(4) of the Schedule.

Paragraph 22(4) (a)

11. 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)

12. 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 CAC has no such evidence and this condition does not apply.

Paragraph 22(4) (c)

13. 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 this condition does not apply.

Declaration of recognition

14. 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 “all hourly paid workers employed at Mantle Lane, Coalville, Leicestershire, LE67 3DW within the following post/job titles:

- CV Production Op Cooked Meats;
- CV Production Op Uncured;
- CV Production Op Curing Room;
- CV Production Op Cutting Room;
- CV Production Op Despatch;
- CV Production Op High Risk;
- CV Production Op Hygiene;
- CV QA / Tech;
- CV Production Op Drivers and
- CV Stores”

Panel

Her Honour Judge Stacey, Chairman of the Panel,

Mr David Crowe

Ms Judy McKnight CBE

14 August 2015