

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:

Unite the Union

and

Teknomek Limited

Introduction

1. Unite the Union (the Union) submitted an application to the CAC dated 20 July 2016 that it should be recognised for collective bargaining by Teknomek Limited (the Employer) for a bargaining unit comprising “Employees in Workshop Prep, Workshop Welding Departments and Stores Department” based at the Employer’s premises in Brunel Way, Sweetbriar Industrial Estate, Norwich, Norfolk. The CAC gave both parties notice of receipt of the application on 21 July 2016. The Employer submitted a response to the CAC dated 29 July 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 Linda Dickens MBE, Chair of the Panel, and, as Members, Ms Bronwyn McKenna and Mr Roger Roberts. Ms McKenna was subsequently replaced by Mr Malcolm Wing. The Case Manager appointed to support the Panel was Nigel Cookson.

3. By its written decision dated 15 August 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. This period was extended upon request of the Union as the parties entered into negotiations in respect of a voluntary arrangement however no such agreement was reached.

4. On 19 October 2016, the Case Manager wrote to the parties seeking confirmation as to whether or not the appropriate bargaining unit had been agreed. Correspondence between the CAC and the parties confirmed that the bargaining unit had been agreed and that it was as originally proposed by the Union although both parties indicated there had been changes in personnel in the bargaining unit.

5. On 28 October 2016 the parties were notified that the Panel would proceed on the basis that the bargaining unit was agreed to be those workers employed in Workshop Prep, Workshop Welding Department and Stores Department. The Union was asked whether it was claiming that it had majority membership within the bargaining unit and was therefore submitting that it should be granted recognition without a ballot.

6. On 3 November 2016 the Union emailed stating that whilst it could claim to have the majority in membership, the position for the foreseeable future was not clear and therefore the Union was of the view that an acceptable compromise would be for the matter to be the subject of a ballot following the Union being permitted access to address the entire bargaining unit.

7. On 9 November 2016, the Panel, having considered the submissions of the parties, concluded that the qualifying condition in paragraph 22(4)(a) of the Schedule was satisfied and that a ballot should be held in the interests of good industrial relations. The parties were duly given notice in accordance with paragraph 23(2) that a secret ballot would be held. 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), before arranging a secret ballot. The parties were also invited to submit to the Panel their views on the form of ballot, namely whether this should be a workplace or postal ballot or a combination of these two methods.

8. The notification period under paragraph 24(5) of the Schedule ended on 22 November 2016. 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).

9. The Union's stated that its preference was for the ballot to take the form of a postal ballot whilst the Employer favoured a workplace ballot. To assist the Panel in reaching a decision it invited estimates based on both forms of ballot. The estimates duly obtained indicated a workplace ballot would be approximately twice the cost of a fully postal ballot. The Panel, having taken into account the considerations specified in paragraphs 25(5) and (6) of the Schedule, as well as the estimates received and the views of the parties, decided that the ballot should take the form of a postal ballot and this decision was conveyed to the parties on 24 November 2016. The parties were then able to reach agreement as to access during the balloting period and the CAC was notified accordingly.

The Ballot

10. Popularis was appointed as QIP on 25 November 2016 to conduct the ballot and the parties were notified by letter. The postal ballot papers were dispatched on 12 December 2016 to be returned by no later than noon on 23 December 2016, the date the ballot closed.

11. The QIP reported to the CAC on 23 December 2016 that out of 20 workers eligible to vote, thirteen (13) ballot papers had been returned. No ballot papers were found to be spoilt. Two (2) workers, 15% of those voting, had voted to support the proposal that the Union should be recognised for the purposes of collective bargaining with the Employer. Eleven (11) workers, 85% of those voting, had voted to reject the proposal. The proportion of workers constituting the bargaining unit who supported the proposal was 10%.

12. The CAC informed the Employer and the Union on 29 December 2016 of the result of the ballot in accordance with paragraph 29(2) of the Schedule.

Declaration that the Union is not entitled to be recognised

13. 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.

14. 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, Chair of the Panel

Mr Roger Roberts

Mr Malcolm Wing.

3 January 2017