

CENTRAL ARBITRATION COMMITTEE
TRADE UNION AND LABOUR RELATIONS (CONSOLIDATION) ACT 1992
SCHEDULE A1 - COLLECTIVE BARGAINING: RECOGNITION
DECISION ON FORM OF BALLOT

The Parties:

RMT

and

Interserve FS (UK) Ltd

Introduction

1. RMT (the Union) submitted an application to the CAC dated 20 January 2015 that it should be recognised for collective bargaining by Interserve FS (UK) Ltd (the Employer) for a bargaining unit comprising “Station/Platform cleaners, cleaning supervisors and tow tractor drivers employed, booking on and working on the Interserve, Network Rail managed stations contract”. The CAC gave both parties notice of receipt of the application on 21 January 2015. The Employer submitted a response to the application on 27 January 2015 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 The Panel consisted of Professor Paul Davies QC FBA who has been replaced by Professor Linda Dickens MBE, as chair of the Panel, and, as Members, Mr Bob Hill

and Ms. Gail Cartmail. The Case Manager appointed to support the Panel was Linda Lehan.

3. By its written decision dated 23 February 2015 the Panel accepted the Union's application and the parties entered a period of 20 working days, the 'appropriate period' in accordance with paragraph 18(2)(a) of Schedule A1 to the Act (the Schedule), within which to negotiate and try to reach agreement as to the appropriate bargaining unit.

4. In correspondence received from the Employer on 26 February 2015 and 3 March 2015 and from the Union on 2 March 2015 and 5 March 2015 it was confirmed that the bargaining unit was the same as that defined in the Union's application form i.e.

“Station/Platform cleaners, cleaning supervisors and tow tractor drivers employed, booking on and working on the Interserve, Network Rail managed stations contract”

Issues

5. On 11 March 2015, the Panel, satisfied that a majority of the workers constituting the bargaining unit were not members of the Union, gave 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 asked for their views on the form the ballot should take.

6. The notification period under paragraph 24(5) of the Schedule ended on 25 March 2015. 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).

Union's submissions on the form of ballot

7. The Union in a submission received on 17 March 2015 said that, to try and ensure the highest turnout in the ballot it recommended that a workplace ballot be held. The Union stated that whilst there were a number of workplaces to be covered it thought it possible to run workplace ballots at all locations efficiently. The Union stated that workers booked on shift at particular times and locations in the stations and if the ballot box could be conveniently placed, workers could cast their votes shortly after booking on, or shortly before booking off work. Finally the Union stated that a workplace ballot may be better for non-union employees who did not have English as a first language as they could discuss the ballot freely with their peers to reach better informed decisions.

Employer's submissions on the form of ballot

8. In an email dated 18 May 2015 the Employer expressed a preference for a postal ballot. It had arrived at this conclusion due to the diverse geographic spread of staff and the 24/7 operation that they ran (three shift patterns per day) and they believed there would be a significant cost and disruption to having someone present on site.

Considerations

9. When determining the form of the ballot (workplace, postal or a combination of the two methods), the CAC must take into account the following considerations specified in paragraphs 25(5) and (6) of the Schedule:

- (a) the likelihood of the ballot being affected by unfairness or malpractice if it were conducted at a workplace;
- (b) costs and practicality;
- (c) such other matters as the CAC considers appropriate

10. In assessing these factors, the Panel has considered carefully the parties' submissions. We have decided the appropriate form of ballot in this case is a postal ballot. The multiple sites and shift patterns of the workers in the bargaining unit raise doubts as to the practicality of a workplace ballot and a workplace ballot would give rise to costs far in excess to those which would be incurred in a postal ballot, not least as a workplace ballot would require attendance by the CAC-appointed QIP at all locations, for time periods covering all shifts.

11. The Panel noted the Union's point concerning the position of non-English speakers. However we feel that agreement on suitable access arrangements and the availability of material, such as workplace notices and ballot papers, in languages other than English can help facilitate discussion of the kind sought by the Union and so address this issue within a postal ballot.

Decision

12. The decision of the Panel is that the ballot be a postal ballot.

13. The name of the Qualified Independent Person appointed to conduct the ballot will be notified to the parties shortly as will the period within which the ballot is to be held.

Panel

Professor Linda Dickens MBE

Mr Bob Hill

Ms Gail Cartmail

26 March 2015