

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

York Mailing Ltd

Introduction

1. Unite the Union (the Union) submitted an application to the CAC that it should be recognised for collective bargaining by York Mailing Ltd (the Employer) for a bargaining unit comprising “All those employed below the level of Manager who are Printers, Printing Assistants, Warehouse/Forktruck Drivers, Engineers/Electricians and Plateroom Operatives”. The application was received by the CAC on 23 July 2015. The CAC gave both parties notice of receipt of the application on 24 July 2015. The Employer submitted a response to the CAC dated 30 July 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 Lynette Harris, Chairman of the Panel, and, as Members, Mr Dasvid Bower and Mr. Gerry Veart. The Case Manager appointed to support the Panel was Linda Lehan.

3. By a decision dated 13 August 2015, 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.

4. In an email dated 13 October 2015 the Union forwarded to the CAC an email from the Employer confirming they were prepared to accept recognition based on a collective bargaining unit of “All those employed below the level of Manager who are Printers, Printing Assistants, Warehouse/Forktruck Drivers, Engineers/Electricians and Plateroom Operatives”. The Union asked for a stay in the proceedings whilst the parties looked at signing a voluntary agreement. In an email dated 2 December 2015 the Union confirmed that a voluntary agreement had not been signed and requested that the CAC proceed with the process. Following this 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

5. 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

6. In a letter dated 2 December 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 3 December 2015 2014 the Union stated that it was claiming that it had majority membership within the bargaining unit and therefore submitted that it should be granted recognition without a ballot

7. On 4 December 2015 the Union's e-mail 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

8. No submissions were received from the Employer.

Considerations

9. 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.

10. 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 6 August 2015, showed that 31 of the 61 workers in the bargaining unit were members of the Union, a membership level of 50.82%. 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 has given thorough consideration to each of the qualifying conditions laid down in paragraph 22(4) of the Schedule.

Paragraph 22(4) (a)

12. 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)

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

Paragraph 22(4) (c)

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 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 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 those employed below the level of Manager who are Printers, Printing Assistants, Warehouse/Forktruck Drivers, Engineers/Electricians and Plateroom Operatives”.

Panel

Professor Lynette Harris, Chairman of the Panel

Mr David Bower

Mr. Gerry Veart

18 December 2015