

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

DP WORLD – London Gateway

Introduction

1. Unite the Union (the Union) submitted an application to the CAC that it should be recognised for collective bargaining by DP WORLD – London Gateway (the Employer) for a bargaining unit comprising “All Terminal Operatives (excluding stores officials, engineering technical shift employees, operational supervisors, shift superintendents, technical team leaders & agency staff)” located at London Gateway, The Manor Way, Stanford le Hope, Essex SS17 9PD. The application was received by the CAC on 1 March 2016. The CAC gave both parties notice of receipt of the application on 1 March 2016. The Employer submitted a response to the CAC dated 3 March 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, chairing the Panel, and, as Members, Mr Peter Martin and Mr Michael Leahy OBE. The Case Manager appointed to support the Panel was Linda Lehan.

3. By a decision dated 22 March 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.

4. In an email dated 21 April 2016 the Employer confirmed that it agreed to the Bargaining Unit put forward by Unite the Union in their application for recognition at London Gateway. 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 22 April 2016 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 25 April 2016 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 25 April 2016 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

8. The Employer in an email dated 27 April 2016 confirmed that it had no further comment to make.

Considerations

9. As set out in paragraph 5 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 14 March 2016, showed that 144 of the 205 workers in the bargaining unit were members of the Union, a membership level of 70.24%. 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.

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 Terminal Operatives (excluding stores officials, engineering technical shift employees, operational supervisors, shift superintendents, technical team leaders & agency staff)” located at London Gateway, The Manor Way, Stanford le Hope, Essex SS17 9PD.

Panel

Professor Linda Dickens MBE , Chair of the Panel

Mr Peter Martin

Mr Michael Leahy OBE

29 April 2016