

**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:**

RMT

and

JW Filshill Ltd

**Introduction**

1. RMT (the Union) submitted an application to the CAC that it should be recognised for collective bargaining by J W Filshill Ltd (the Employer) in respect of a bargaining unit comprising “All Drivers and Warehouse Staff, excluding Supervisory and Management Grades” located at Hillington Road, Glasgow, GS2 4HE. The application was received by the CAC on 1 December 2014. The CAC gave both parties notice of receipt of the application on 2 December 2014. The Employer submitted a response to the CAC dated 4 December 2014 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 Mr Chris Chapman, Chairman of the Panel, and, as Members, Mrs Maureen Shaw and Mr Sandy Boyle. The Case Manager appointed to support the Panel was Linda Lehan.

3. By its written decision dated 30 December 2014 the Panel accepted the Union’s application. The parties then 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 but no agreement was reached.

4. A hearing to determine the appropriate bargaining unit was held in Glasgow on 30 March 2015 and after due consideration of the parties' submissions, both written and oral, the Panel decided that the appropriate bargaining unit should consist of "all staff employed in Transport, Picking, Tobacco and Warehouse at the Hillington site with the exception of senior managers, managers and assistant managers". This bargaining unit differed to that proposed by the Union by the inclusion of workers who had the exact same job titles within Transport and Warehouse at the Hillington site who the Union sought to exclude.

5. As the determined bargaining unit differed from that proposed by the Union, the Panel was required by paragraph 20 of the Schedule A1 to the Trade Union and Labour Relations (Consolidation) Act 1992 (the Schedule) to determine whether the Union's application is valid or invalid within the terms of paragraphs 43 to 50 of the Schedule. By a decision dated 1 June 2015 the Panel determined that the application was valid for the purposes of paragraph 20 and that the CAC would therefore proceed with the application.

6. On 11 June 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.

7. Both parties were in agreement on the type of ballot to be conducted and in a letter dated 5 June 2015, in accordance with paragraph 25(4) of the Schedule, the Panel conveyed to the Parties that the ballot should be a combination ballot, that is a workplace ballot with a postal element for those workers known in advance to be absent from the workplace on the day that the workplace ballot is conducted. The parties were able to reach agreement as to access during the balloting period and the CAC was notified accordingly.

### **The Ballot**

8. Popularis was appointed as QIP on 26 June 2015 to conduct the ballot and the parties were notified accordingly. The Employer provided a list of the names and addresses of

workers in the bargaining unit to the CAC which was passed to the QIP. The postal ballot papers were dispatched on 13 July 2015 to be returned to the QIP by no later than noon on 24 July 2015. The workplace ballot took place on the 23 July 2015 between 12:30 hours and 16:00 hours and on the 24 July 2015 between 11:00 hours and 16:00 hours.

9. The QIP reported to the CAC on 27 July 2015 that, out of 111 workers eligible to vote, one hundred and five (105) ballot papers had been returned. Ninety two (92) workplace votes had been returned and thirteen (13) out of the seventeen (17) postal votes sent were returned. Thirty five (35) workers (33.33% of those voting) had voted to support the proposal that the Union should be recognised by the Employer and seventy (70) workers (66.66% of those voting) had voted to reject the proposal. The proportion of workers constituting the bargaining unit who supported the proposal was 31.53%.

#### **Declaration that the Union is not entitled to be recognised**

10. In accordance with paragraph 29(2) of the Schedule the CAC informed both parties, on 27 July 2015, of the result of the ballot.

11. 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.

12. 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**

Mr Chris Chapman, Chairman of the Panel

Mrs Maureen Shaw

Mr Sandy Boyle

**29 July 2015**