

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

Carefree Travel Limited

Introduction

1. RMT (the Union) submitted an application dated 25 January 2017 to the CAC that it should be recognised for collective bargaining purposes by Carefree Travel Limited (the Employer) for a bargaining unit comprising “All employees/workers except management grades” located at Barrow in Furness. The CAC gave both parties notice of receipt of the application on 27 January 2017. The Employer submitted a response to the CAC dated 1 February 2017 which was duly 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 Kenny Miller, Chairman of the Panel, and, as Members, Mrs Maureen Chambers and Mr Paul Talbot. The Case Manager appointed to support the Panel was Linda Lehan.

3. By a decision dated 13 February 2017 the Panel accepted the Union’s application. Although the parties had not agreed the bargaining unit prior to the Union’s application, in its

response to the application the Employer agreed that the bargaining unit should be the same as that proposed by the Union.

4. 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. In an email dated 15 February 2017 the Union confirmed that it did not have majority membership.

5. On 15 February 2017 the Panel, being 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) of the Schedule to the Act (the Schedule) that it intended to arrange for the holding of a secret ballot in which the workers constituting the bargaining unit would be asked whether they wanted the Union to conduct collective bargaining on their behalf. The parties were advised that the Panel would wait until the end of the notification period of ten working days, as specified in paragraph 24, before arranging for the holding of the ballot. The parties were asked for their views on the form the ballot should take.

6. The notification period elapsed without the Union, or the Union and the Employer jointly, informing the CAC that they did not want the CAC to arrange for the holding of the ballot.

7. In an email dated 21 February 2017 the Union requested a workplace ballot over a maximum of two days. In an email dated 22 February 2017 the Employer's representative requested a postal ballot. Having considered the parties' views and the factors specified in paragraphs 25(5) and (6) of the Schedule, the Panel decided that the ballot should be a postal ballot and this was conveyed to the parties by way of a decision dated 10 March 2017.

8. The Panel subsequently directed that the Electoral Reform Services should be appointed as the Qualified Independent Person (QIP) to conduct the ballot.

9. The QIP was appointed on 21 April 2017 and the Parties were notified accordingly in a letter of the same date. On 28 April 2017 the Union submitted a complaint to the CAC that

the Employer had failed to fulfil its duties under paragraph 26 of the Schedule. On 28 April 2017 the Panel notified the Parties that the ballot would be suspended and they were invited to attend a hearing on 31 May 2017 in order for the Panel to determine whether the Employer had failed to fulfil any of the duties imposed by paragraph 26. By way of a decision dated 6 June 2017, the Panel upheld the Union's complaint that the Employer failed in its second duty, set out at paragraph 26(3) of the Schedule to provide reasonable access to the workers constituting the bargaining unit. As a consequence of this, the Panel made an order on access during the balloting period which was appended to the decision. The parties agreed the access as detailed during the hearing.

The Ballot

10. The QIP was re-appointed and the Parties were notified accordingly in a letter dated 6 June 2017. The Parties were informed that the balloting period would commence on 27 June 2017 and close at noon on 25 July 2017. The postal ballot papers would be dispatched on 12 July 2017 to be returned to the QIP by no later than noon on 25 July 2017.

11. The QIP reported to the CAC on 25 July 2017 that, out of 23 workers eligible to vote, eighteen (18) ballot papers had been returned. No ballot papers were found to be blank or spoilt. Nine (9) workers, (50% of those voting) had voted to support the proposal that the Union should be recognised by the Employer for the purposes of collective bargaining and nine (9) workers (50% of those voting) had voted to reject the proposal. The proportion of workers supporting the proposal as a percentage of the bargaining unit was 39.1%.

12. The CAC informed the Employer and the Union on 26 July 2017 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 Kenny Miller, Chairman of the Panel

Mrs Maureen Chambers

Mr Paul Talbot

31 July 2017