Case Number: TUR1/1010/2017

07 August 2017

CENTRAL ARBITRATION COMMITTEE

TRADE UNION AND LABOUR RELATIONS (CONSOLIDATION) ACT 1992

SCHEDULE A1 - COLLECTIVE BARGAINING: RECOGNITION

DECLARATION OF RECOGNITION WITHOUT A BALLOT

The Parties:

GMB

and

William Hare Limited

Introduction

1. The GMB (the Union) submitted an application to the CAC dated 4 May 2017 that it should be recognised for collective bargaining by William Hare Limited (the Employer) for a bargaining unit comprising "all workers engaged in production, Quality Assurance, office based staff, Cleaners and Maintenance up to and including the level of Supervision working for William Hare, Unit 40 – 50, Wigan Enterprise Park, Seaman Way, Ince-in-Makerfield, Wigan WN2 2LE." The CAC gave both parties notice of receipt of the application on 5 May 2017. The Employer submitted a response dated 11 May 2017 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, as chair of the Panel, and, as Members, Mr Mike Regan and Mr Keith Sonnet. The Case Manager appointed to support the Panel was Miss Sharmin Khan. By a decision dated 06 June 2017 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.

3. Performing its duty under paragraph 18A of the Schedule, on 13 June 2017, the Employer provided to the Union and the CAC the categories of worker, the workplace and total number of workers in each category of worker in the proposed bargaining unit. The categories were: Chargehand, Inspector, Skilled Operative, Semi-skilled operative, Maintenance operative, Labourer, Craft apprentice and Cleaner of which there was a total of 19 workers. The Employer confirmed the workplace as Unit 40 Wigan Enterprise Park, Seaman Way, Ince, Wigan WN2 2LE.

4. By letter dated 4 July 2017 the Employer informed the CAC that William Hare Limited at Wigan would close at the end of July and so had not agreed the appropriate bargaining unit as it would cease to exist. But the Employer stated for the sake of completeness that the appropriate bargaining unit would be: Chargehand, Inspector, Skilled Operative, Semi-skilled operative, Maintenance operative, Labourer, Craft apprentice and Cleaner. By letter dated 5 July 2017 the CAC asked the Employer to confirm whether this bargaining unit was the same as that proposed by the Union in its application to the CAC, or, if it differed, to provide an explanation as to how. In its response dated 7 July 2017 the Employer stated it could confirm that the agreed bargaining unit was not substantively different to that proposed by the Union in its application. The reason for the difference in the descriptions related to the job titles used by William Hare Limited which fell under the activities of Production. No cleaners, maintenance, quality assurance or office based employees were employed at William Hare Ltd. In response to the same question from the CAC, the Union confirmed by its e-mail dated 17 July 2017 that the agreed bargaining unit for William Hare Ltd Wigan was the same as its proposed bargaining unit.

Issues for the Panel

5. Paragraph 22(2) of Schedule A1 to the Act (the Schedule) requires the CAC to issue a declaration that a union is recognised as entitled to conduct collective bargaining on behalf of a group of workers constituting the bargaining unit if it is satisfied that a majority of the workers constituting the bargaining unit are members of the applicant union, unless any of the three qualifying conditions set out in Paragraph 22(4) are fulfilled. If any of these conditions are

met, or the CAC is not satisfied that a majority of workers in the bargaining unit are members of the applicant union, the CAC must give notice to the parties that it intends to arrange for a secret ballot to be held. The qualifying conditions in paragraph 22(4) are as follows:

a) the CAC is satisfied there should be a ballot in the interests of good industrial relations;

b) 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 (or unions) to conduct collective bargaining on their behalf;

c) membership evidence is produced which leads the CAC to conclude that there are doubts whether a significant number of union members within the bargaining unit want the union to conduct collective bargaining on their behalf.

Union's claim to majority membership and qualifying conditions

6. By letter dated 17 July 2017 the CAC asked the Union to confirm whether it was claiming that the Union had majority membership within the bargaining unit and therefore submitting that it should be granted recognition without a ballot, and set out the qualifying conditions to be considered by the Panel (as set out in paragraph 5 above). The Union responded by e-mail on 19 July 2017 informing that it was claiming majority membership and therefore submitted that it should be granted recognition for the purposes of collective bargaining on behalf of the bargaining unit without a ballot.

7. On 21 July 2017 the CAC invited the Employer to make submissions on the Union's claim to majority membership within the bargaining unit and on the qualifying conditions specified in paragraph 22(4) of the Schedule (set out in paragraph 5 above). In an e-mail dated 27 July 2017 the Employer confirmed it did not have any submissions to make.

Considerations

8. The Schedule requires the Panel to consider whether it is satisfied that the majority of the workers in the bargaining unit are members of the Union and if the Panel is satisfied that

the majority of the workers in the bargaining unit are members of the Union, it must declare the Union recognised by the Employer, unless it decides that any of the three conditions in paragraph 22(4) are fulfilled. If the Panel considers any of the conditions are fulfilled it must give notice to the parties that it intends to arrange for the holding of a secret ballot.

9. The Union has asked the Panel to declare recognition of the Union for collective bargaining without a ballot. The results of the Case Manager's membership check conducted in May 2017 established that in the proposed bargaining unit of 21 workers 13 were members of the Union, a membership level of 62%. From the Employer's correspondence of 13 June and 7 July 2017 the Panel is aware that the number in the bargaining unit, which is now agreed between the parties, has shrunk slightly. However the Employer has not disputed that the Union has majority membership in the bargaining unit. On the evidence the Panel is satisfied that a majority of workers in the bargaining unit are members of the Union.

10. The Panel's other duty at this stage of the process is to consider whether any of the three qualifying conditions stated in paragraph 22(4) (described in paragraph 5 of this decision) applies. In this case the Employer has made clear to the Panel that it does not have any submissions in respect of these. The CAC has not received any evidence from union members in the bargaining unit, nor relating to membership which might cast doubt on support for collective bargaining. The Panel is satisfied that conditions (b) and (c) do not apply. No argument or evidence was presented on condition (a). Having considered fully whether a ballot should be held in the interests of good industrial relations the Panel is satisfied that it should not be.

11. Therefore, in the absence of any evidence to the contrary the Panel is satisfied that none of the conditions in paragraph 22(4) of the Schedule is fulfilled.

Decision

12. 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 is fulfilled. 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 workers engaged in production, Quality Assurance, office based staff, Cleaners and Maintenance up to and including the level of Supervision working for William Hare, Unit 40 - 50, Wigan Enterprise Park, Seaman Way, Ince-in-Makerfield, Wigan WN2 2LE.

This includes:
Chargehand, Inspector, Skilled Operative, Semi-skilled operative, Maintenance operative, Labourer, Craft apprentice and Cleaner.

Panel

Professor Linda Dickens MBE
Mr Keith Sonnet
Mr Mike Regan

07 August 2017