

16 March 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:

Unite the Union

and

Canute Group

Introduction

1. Unite the Union (the Union) submitted an application to the CAC on 11 January 2017 that it should be recognised for collective bargaining by Canute Group (the Employer) for a bargaining unit comprising "Drivers". The location of the bargaining unit was "Unit B, Orion Business Park, Great Blakenham, Ipswich, IP6 0RL." The CAC gave both parties notice of receipt of the application on 11 January 2017. The Employer submitted a response to the CAC which was received on 20 January 2017 and 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 Her Honour Judge Stacey, Chairman of the Panel, and, as Members, Mr Simon Faiers and Mr Malcolm Wing. The Case Manager appointed to support the Panel was Miss Sharmin Khan.

3. By a decision dated 3 February 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. On 17 February 2017 the CAC was copied into the e-mail exchange between

the parties in which the Employer confirmed that it agreed with the Union's proposed bargaining unit which it therefore considered it to be appropriate, as follows:

“Drivers” located at Unit B, Orion Business Park, Great Blakenham, Ipswich, IP6 0RL”.

Issues for the Panel

4. 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, in which case a secret ballot will be held. 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.

The Union's claim to majority membership

5. In an e-mail to the CAC dated 22 February 2017, the Union advised the Panel that the Union was claiming majority membership within the bargaining unit and therefore submitted that recognition should be granted without a ballot.

The Employer's submissions on the Union's claim to majority membership and the qualifying conditions

6. The Employer was invited to make submissions on both the Union's claim to majority membership within the bargaining unit and on the three qualifying conditions specified in paragraph 22(4) of the Schedule (set out in paragraph 4 above). The Employer responded to the CAC by e-mail on 24 February 2017 in which it stated that providing that the Union showed evidence to the CAC that the majority of the bargaining unit were Union members it would be happy to avoid going through the balloting process.

The Case Manager's Membership Check

7. Following the Employer's submission, the Panel instructed that the Case Manager carry out an independent check of the level of Union membership in the bargaining unit. In a letter to the parties dated 17 February 2017 the CAC confirmed the arrangements for the membership check. The Union was asked to provide a list of the names, addresses and dates of birth of the paid up Union members in the bargaining unit and the Employer was asked to provide the names, addresses, dates of birth and job titles of the workers in the bargaining unit. The parties were also informed that to preserve confidentiality, the respective lists would not be copied to the other party.

8. The information from both parties was received by the Case Manager by 28 February 2017. The Case Manager's report established there were 13 workers in the bargaining unit of whom 12 were members of the Union, a percentage level of 92%. The report of the check was issued to the parties on 2 March 2017. The Case Manager asked the Employer to confirm whether it maintained its position to accept recognition without a ballot if the Union had majority membership in the bargaining unit. On 9 March 2017 the Employer confirmed by telephone to the Case Manager that it accepted the results of the membership check and was content for the Panel to proceed without a ballot.

Considerations

9. 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.

10. The Union has asked the Panel to declare recognition of the Union for collective bargaining without a ballot. The Case Manager's recent membership check established that there were 12 members, in the bargaining unit of 13 workers, a membership level of 92% of the total in the bargaining unit. This was not contested by the Employer. The Panel concludes that the check was conducted fairly and appropriately and is satisfied that the majority of workers in the bargaining unit are members of the Union.

11. It was not suggested, and nor was there any evidence to suggest that any of the three qualifying considerations stated in paragraph 22(4) (described in paragraph 4 of this decision) apply in this case and it is the preference of both parties not to hold a ballot.

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 “drivers” currently located at “Unit B, Orion Business Park, Great Blakenham, Ipswich, IP6 0RL.”

Panel

Her Honour Judge Stacey – Panel Chairman

Mr Simon Faiers

Mr Malcolm Wing

16 March 2017