

17 March 2017

**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:**

**Bakers Food and Allied Workers Union**  
**(BFAWU)**

and

**Kettleby Foods Limited**

**Introduction**

1. The Bakers Food and Allied Workers Union (the Union) submitted an application to the CAC dated 22 June 2016 which was received by the CAC on 23 June 2016, that it should be recognised for collective bargaining by Kettleby Foods Limited (the Employer) for a bargaining unit comprising “all hourly paid workers employed at 2, Samworth Way, Leicester Road, Melton Mowbray, LE13 1GA”. The Union stated “We do not seek recognition in relation to Managers.” The CAC gave both parties notice of receipt of the application on 24 June 2016. The Employer submitted a response to the CAC dated 30 June 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 consisting of Her Honour Judge Stacey, Chairman of the Panel, and as Members, Ms Gail Cartmail and Mr Rod Hastie. The Case Manager appointed to support the Panel was Miss Sharmin Khan.

3. By its written decision dated 14 October 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. On 21 October 2016, the Employer wrote to the CAC confirming that it agreed with the Union's proposed bargaining unit as stated in its application. In a letter to the Union dated 24 October 2016 the CAC asked the Union to confirm that the agreed bargaining unit was the same as that proposed by the Union in its application and if so, whether the Union was claiming majority membership within that unit and that it should therefore be granted recognition without a ballot. The Union responded by e-mail to the CAC on 25 October 2016 that the bargaining unit was agreed and that it did not assert a majority membership.

5. On 25 October 2016 the parties were duly given 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 invited to submit to the Panel their views on the form of ballot, namely whether it should be a workplace or postal ballot or a combination of the two.

6. The notification period under paragraph 24(5) of the Schedule ended on 8 November 2016. The CAC was not notified by the Union or by both parties jointly that they did not want the ballot to be held, as per paragraph 24(2).

7. In submissions to the Panel dated 26 October 2016 the Union stated its case for a postal ballot and the Employer in its submissions dated 31 October 2016 stated its case for a workplace ballot. The Panel, having taken into account the considerations specified in paragraphs 25(5) and (6) of the Schedule, as well as the views of the parties, decided that the ballot should take the form of a postal ballot as it was more practical and cost effective in the circumstances. The Panel's decision was provided by letter to the parties dated 9 November 2016. The parties were then 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 7 February 2017 to conduct the ballot and the parties were notified by letter. The postal ballot papers were dispatched on 23 February 2017 to be returned by no later than noon on 7 March 2017, the date the ballot closed.

9. The QIP reported to the CAC on 8 March 2017 that out of 585 workers eligible to vote, 473 ballot papers had been returned. No ballot papers were found to be spoilt. 77 workers, 16% of those voting, had voted to support the proposal that the Union should be recognised for the purposes of collective bargaining with the Employer. 396 workers, 84% of those voting, had voted to reject the proposal. The proportion of workers constituting the bargaining unit who supported the proposal was 13%.

10. The CAC informed the Employer and the Union on 8 March 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**

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**

Her Honour Judge Stacey - Chairman of the Panel

Ms Gail Cartmail

Mr Rod Hastie

**17 March 2017**