

10 May 2018

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:

GMB

and

Apcoa Parking (UK) Limited

Introduction

1. GMB (the Union) submitted an application to the CAC dated 21 November 2017 that it should be recognised for collective bargaining by Apcoa Parking (UK) Limited (the Employer) in respect of a bargaining unit comprising “All members employed on the Lambeth Council Parking Contract”. The application was received by the CAC on 22 November 2017. The CAC gave both parties notice of receipt of the application on 22 November 2017. The Employer submitted a response to the CAC dated 27 November 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 Mr Charles Wynn-Evans, Chairman of the Panel, and, as Members, Ms Gail Cartmail and Mr Arthur Lodge. Mr Arthur Lodge was subsequently replaced as a Panel Member by Mr Len Aspell owing to Mr Lodge’s retirement from the CAC on 31 March 2018. The Case Manager appointed to support the Panel was Kate Norgate.

3. By a decision dated 15 January 2018, the Panel accepted the Union's application. On 23 January 2018, the Employer wrote to the CAC confirming that it agreed with the Union's proposed bargaining unit as stated in its application.

4. As the agreed bargaining unit was the same as that proposed by the Union in its application, the Panel moved to the next stage in the statutory process

5. 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 a letter dated 29 January 2018 the Union confirmed that it did not have majority membership.

6. On 30 January 2018, 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 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 also asked for their views on the form the ballot should take. 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. Both parties were in agreement on the type of ballot to be conducted and in a letter dated 7 February 2018, in accordance with paragraph 25(4) of the Schedule, the Panel conveyed to the parties that the ballot should be a postal ballot. The parties were able to reach agreement as to access during the balloting period and the CAC was notified accordingly.

8. The Panel subsequently directed that Mi-Voice should be appointed as the Qualified Independent Person (QIP) to conduct the ballot.

The Ballot

9. The QIP was appointed on 3 April 2018 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 18 April 2018 to be returned to the QIP by no later than noon on 1 May 2018.

10. The QIP reported to the CAC on 1 May 2018 that out of 107 workers eligible to vote, Thirty Eight (38) ballot papers had been returned. Thirty Eight (38) workers, that is 100% of those voting, had voted to support the proposal that the Union be recognised for the purposes of collective bargaining with the Employer. The number of votes supporting the proposal as a percentage of the bargaining unit was 35.5%.

11. The CAC informed the Employer and the Union on 3 May 2018 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

12. The ballot did not establish that at least 40% of the workers constituting the bargaining unit supported the proposal that the Union be recognised by the Employer for the purposes of conducting collective bargaining in respect of the bargaining unit.

13. 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 Charles Wynn-Evans, Chairman of the Panel

Ms Gail Cartmail

Mr Len Aspell

10 May 2018