# Case Ref No: IC-81/2019

**THE INDUSTRIAL COURT**

**THE TRADE UNION AND LABOUR RELATIONS (NORTHERN IRELAND) ORDER 1995 (AS INSERTED BY ARTICLE 3 OF THE EMPLOYMENT RELATIONS (NORTHERN IRELAND) ORDER 1999)**

**SCHEDULE 1A – COLLECTIVE BARGAINING: RECOGNITION**

**DECISION ON WHETHER TO ACCEPT THE APPLICATION**

**The Parties:**

Unite the Union

And

PRM Logistics Ltd

**Background**

1. The Industrial Court (the Court) received an application on 6th June 2019, for recognition at PRM Logistics Ltd, Lissue Industrial Estate, Rathdown Road, Lisburn. The bargaining unit was described as ‘Warehouse Operatives, Goods Inward, Service excluding all management including Team Leaders’.

2. The application was copied to the Employer on 10th June 2019. The Employer Response Form was issued to the Employer on 10th June 2019 with a deadline of 14th June 2019.

**Application Form**

3. In its application, the Union stated that the total number of workers employed by the employer was 30, the number of workers in the bargaining unit was 25 and the number of Union members in the bargaining unit was 20. The Union also produced to the Court a letter from the Union to the Employer, of which the Employer acknowledged receipt on 20th May 2019, which makes a formal request for recognition.

4. This letter describes the bargaining unit as:-

“All Employees (Warehouse Operatives, Goods Inward, Service) Bargaining groups excluded:- Management Team Leaders”.

**Employer Response to Union Application**

5. The Employer Response was received on 14th June 2019. In its response the Employer stated that the Union’s written request for recognition under Schedule 1A was first received on 20th May 2019. On the answer to the question about receipt of the application, the Employer stated that it had been received on 5th June 2019 and that the bargaining unit had not been agreed prior to receiving the Application Form. The Employer stated that it employed a total of 38 workers. The Employer did not agree with the number of workers in the bargaining unit as defined in the Union’s application and gave no reason.

**Panel Meeting on Friday 14th June 2019**

6. The Court Panel met on Friday 14th June to review the papers in this Application. The Panel concluded that the range of matters in relation to admissibility and validity tests appeared to be satisfied and that membership/’majority likely to’ checks should be conducted.

**Membership/’Majority likely to’ Checks**

7. The following information was requested from the Parties:

From the Union:

* the names and addresses of all Union members currently within the proposed Bargaining Unit on Friday 14 June 2019;
* its understanding of the job titles of each of these Union members;
* details of how Union subscriptions are paid by members, amount paid and date of last payment.

The Employer was asked to provide:

* a list of the names and addresses of the workers in the proposed bargaining unit on Wednesday Friday 14 June 2019 and
* job titles for each of these workers.

The Parties were asked to supply the information to the Case Manager no later than 5pm on Thursday 20th June 2019.

**Information provided by the Parties**

9. On Monday 24th June 2019 the Union provided:

* A membership list containing 18 names, with membership numbers, method of payment, date of last payment, addresses and understood job titles for those within the proposed bargaining unit.

It should be noted that the Union informed the Case Manager that the specified information had been sent on Tuesday 18th June but it was not received.

On Thursday 20th June the Employer provided a response to the Court with the following:

* A list of 28 workers including names, addresses and job titles.

**Membership and ‘Majority Likely to’ Checks**

10. A comparison of the names and addresses on the Union Membership list, with the list of workers in the proposed bargaining unit supplied by the Employer showed the following:

Result of the checks on the level of Union membership and ‘majority likely to’

|  |  |
| --- | --- |
| Number of workers on list supplied by the Employer | 28 |
| Number of Union Members relevant to this application on list supplied by the Union | 18 |
| Number of Union Members with dues paid | 18 |
| Number of Union Members whose names and addresses match with those provided by the Employer | 17 |
| Number of workers who would be likely to favour recognition of the Union | 17 (60.71%) |

11. It should be noted that the Employer used only one Job title (Warehouse Operative) for all 28 workers on its list, rather than those set out by the Union in its Letter of Request and Application Form. The Union used Warehouse Operative, Goods Inward and one unknown as the understood job titles for the 18 workers on its list.

# 12. The Court Panel met again on Friday 28th June 2019 to consider the responses and to decide on acceptance of the application.

**Considerations**

13. At that meeting, the Panel confirmed with the Case Manager that a range of admissibility and validity tests, set out in paragraphs 5–9, 11 and 12 and 33–42 of the Schedule, were satisfied. In particular, the Court considered the issues of Union membership and ‘majority likely to’ in the proposed bargaining unit.The relevant admissibility tests are set out in paragraph 36 of the Schedule, which provides:-

*“(1) An application under paragraph 11 or 12 is not admissible unless the Court decides that—*

*(a) members of the union (or unions) constitute at least 10 per cent of the workers constituting the relevant bargaining unit, and*

*(b) a majority of the workers constituting the relevant bargaining unit would be likely to favour recognition of the union (or unions) as entitled to conduct collective bargaining on behalf of the bargaining unit.”*

14. Given the outcome of the relevant checks, showing Union membership of over 60% of the workers constituting the proposed bargaining unit, the Panel was satisfied that both of the tests in paragraph 36 were satisfied.

# DECISION

For the reasons outlined above, the Industrial Court is satisfied that:

members of the Union constitute at least 10% of the workers constituting the proposed bargaining unit;

a majority of workers constituting the proposed bargaining unit would be likely to favour recognition of the Union as entitled to conduct collective bargaining on behalf of the bargaining unit; and

the application meets the remaining admissibility and validity criteria.

The Industrial Court’s Decision is therefore that the application is accepted.



Mr Barry Fitzpatrick

Mr Robin Bell

Ms Patricia O’Callaghan

Decision Date: 28th June 2019

Date Issued to Parties: 21st August 2019