# Case Ref No: IC-82/2019

**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:**

Unison

And

Arjo UK Limited

**Background**

1. The Industrial Court (the Court) received an application on 9 December 2019, for recognition at Arjo UK Ltd, 19 Heron Road, Sydenham Business Park, Belfast BT3 9 LE. The bargaining unit was described as ‘Service Engineers, Rental Technician Team, Stores Team, Admin staff and Laundry staff. See attached Appendix one for job titles as set out in formal request to the Employer’.

Appendix one included the following:

Compliance Administrator, Service Administrator, Rental Administrator, Customer Service Administrator, Accounts Assistant, Sales Administrator, Stores/Stock Controller, Laundry Technician, Rental Technician, Field Service/Service Engineer, Workshop Engineer, Roving Engineer, TME Engineer, Installation Engineer, SET Technician, SET Cleaner, Decontamination Engineer.

**At this point administration issues unfortunately resulted in a delay in the case proceeding**.

The application was copied to the Employer on 19 February 2020. The Employer Response Form was issued to the Employer on 19 February 2020 with a deadline of 26 February 2020.

**Application Form**

2. In its application, the Union stated that the total number of workers employed by the employer was 64, the number of workers in the bargaining unit was 60 and the number of Union Members in the bargaining unit was 32.

The Union also produced a letter to the Court which was from the Union to the Employer, which the Employer acknowledged receipt of on 12 November 2019, which made a formal request for recognition.

This letter described the bargaining unit as:-

Service Engineers, Rental Technician Team, Stores Team, Admin staff and Laundry staff working for Arjo UK in Northern Ireland. The specific job titles of staff in the aforementioned collective include:

Compliance Administrator, Service Administrator, Rental Administrator, Customer Service Administrator, Accounts Assistant, Sales Administrator, Stores/Stock Controller, Laundry Technician, Rental Technician, Field Service/Service Engineer, Workshop Engineer, Team Support Engineer, Roving Engineer, TME Engineer, Installation Engineer, SET Technician, SET Cleaner, Decontamination Engineer.

**Employer Response to Union Application**

3. The Employer Response was received on 27 February 2020.

In its response the Employer stated that the Union’s written request for recognition under Schedule 1A was received on 12 November 2019.

On the answer to the question about receipt of application, the Employer stated it had received the application on 6 December 2019 and that the bargaining unit had not been agreed prior to receiving the Application Form.

The Employer stated that it employs a total of 63 workers. The Employer did not agree with the number of workers in the bargaining unit as defined in the Union’s application and provided the following reason:

* We agree with the location of the bargaining unit.
* Calculated approx. 45-50 employees in Unisons proposed bargaining unit based on names of department provided and job titles provided by Unison in their application.
* We seek clarification from Unison regarding job titles and department names as they don’t align to our structure/terminology and therefore we cannot accurately confirm numbers of employees in the bargaining unit without understanding this. We have asked for clarification of this in writing on previous occasions.
* Unison have confirmed they will only represent and communicate with their members in the bargaining unit and not all employees in the bargaining unit.

**Panel Meetings on Acceptance**

4. The Panel met on 3 March 2020 to discuss the Union’s application as there appeared to be some disparity between the information supplied by both Parties. As a result of this, and as agreed by the Panel, both Parties were required to attend an informal discussion. The Employer was asked to provide the following by noon on 10 March 2020:

1. Organisational Chart including departmental structure and the Employer’s understood job titles.
2. Any other information the Employer regards as useful to understand the composition of the company, and particularly that of the Union’s proposed bargaining unit, including the number of workers per category of worker/job title.

The Union was invited to respond to this information and evidence by noon on Thursday 12th March.

The Employer responded on 4 March 2020 stating that they had arranged a meeting with the Union on 20 March 2020 with a view to completing a Voluntary Agreement.

As agreed by all panel members the acceptance period was extended with a view that the Employer/Union would update the Court on 23 March 2020 of progress. If no agreement was reached then the parties were to make themselves available for an informal discussion that week.

**COVID-19 impacted on the progress of the application due to Government restrictions and a travel ban in place within Arjo UK Ltd from the end of March.**

Following an email from the Union on 29 May 2020 that even after further negotiations, no agreement had been reached. The Court panel members took the decision to proceed with the case.

**Membership Check Requested**

5. In order to assist in the completion of the determination of the tests in the Schedule, the Chairman, with approval from the Panel, instructed the Case Manager to conduct a membership and ‘majority likely to’ check. 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 Thursday 4 June 2020;**
* **your 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; and**
* **further evidence of support for collective bargaining within the proposed bargaining unit.**

The Employer was asked to provide:

* **a list of the names and addresses of the workers in the proposed bargaining unit on Thursday 4 June 2020; and**
* **job titles for each of these workers.**

6. The Parties were asked to supply the information to the Case Manager no later than noon on Thursday 18 June 2020.

**Information provided by the Parties**

7. On Wednesday 10 June 2020 the Union provided:

* A membership list containing 31 names, with membership numbers, union fees paid, date of last union fee payment, addresses and understood job titles for those within the proposed bargaining unit.

8. On Thursday 18 June 2020 the Employer provided a response to the Court with the following:

* A list of 49 workers including names, addresses and job titles.

**Membership Check**

9. 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 of the level of Union Membership and ‘majority likely to’**

|  |  |
| --- | --- |
| Number of workers on list supplied by the Employer | 49 |
| Number of Union Members relevant to this application on list supplied by the Union | 31 |
| Number of Union Members with dues paid | 31 |
| Number of Union Members whose names and addresses match with those provided by the Employer | 31 |
| Number of workers who would be likely to favour recognition of the Union (Union members only) | **31 (63.2%)** |

**Case Manager’s Report**

10. The Case Manager’s Report was issued on 19th June 2020. The Employer representative made a response on 22nd June 2020 with no notable comments. The Union did not respond.

# The Court Panel met again on Tuesday 23rd June 2020 to consider the response and to decide on acceptance of the application.

# Considerations

11. 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.”*

# 12. The Court panel agreed that the 10% Union membership test is satisfied. The Court also concluded that the ‘majority likely to’ test has been satisfied.

# DECISION

For the reasons to be 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.

Robin Bell

Mr Robin Bell

Mr Peter Williamson

Ms Patricia O’Callaghan

Decision Date: 23rd June 2020

Date Issued to Parties: 15 July 2020