

**Case Ref No: IC-32/2006**

**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:**

Amicus

and

Sanmina SCI (UK) Ltd

**Introduction**

1. Amicus (the Union) submitted an application to the Industrial Court (the Court) dated 6<sup>th</sup> April 2006 for recognition at Sanmina SCI (UK) Limited (the Employer), 19 Ballinderry Road, Lisburn, Co Antrim BT28 2SA, for a bargaining unit consisting of *“Managers and staff working in Sanmina covering Commercial, Operations Management, Engineering, Finishing Engineering, Tool Room Supervisor, Production Supervisors, Purchasing/Materials, Administrators, NPI Manufacturing, Facilities/Maintenance, Planning Training IT, Quality/Test”*. The Court gave both parties notice of the receipt of the application on 10<sup>th</sup> April 2006. The Employer submitted a response to the Court on 13<sup>th</sup> April 2006, which was copied to the Union.
2. In accordance with Article 92(A) of the Industrial Relations (Northern Ireland) Order 1992, the Industrial Court Chairman established a Panel of the Court to deal with the case. The Court consisted of Mr Barry Fitzpatrick, Chairman, and, as Members, Ms Avril Hall-Callaghan and Mr George McGrath. The Case Manager appointed to support the Court was Ms Brenda Slowey.

**Issues**

3. The Panel is required by the Trade Union and Labour Relations (Northern Ireland) Order 1995 to decide whether the Union's application to the Court is valid within the terms of: Schedule 1A, paragraphs 5 – 9; is made in accordance with paragraphs 11 or 12; and is admissible within the terms of paragraph 33 to 42 of Schedule 1A to the Order, and therefore should be accepted.

4. In its application the Union indicated that the number of workers in its proposed bargaining unit was approx 75 and that close to 50% of these workers were its members. The Union further stated *“other members of staff have stated they wish to have Amicus recognised for collective bargaining”*.
5. In its response to the Union’s application, the Employer did not agree with the Union’s proposed bargaining unit stating *“we believe the bargaining unit proposed is not sufficiently well defined and is not appropriate”*. The Employer disagrees with the Union’s estimate of membership in their proposed bargaining unit stating *“we are aware of only 17 staff employees who are union members. These employees pay their union contributions by monthly salary deduction”*. The Employer did not consider that the majority of the workers in the proposed bargaining unit supported recognition of the Union for the same reason in that they were only aware of 17 employees who paid their union contributions by monthly salary deduction.
6. The union also submitted separately an undated petition.

#### **Membership and petition check**

7. To assist the determination of two of the admissibility criteria specified in the Schedule, i.e:
  - a) whether members of the union (or unions) constitute at least 10 per cent of the workers constituting the relevant bargaining unit (paragraph 36(1)(a); and
  - b) where 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 (paragraph 36(1)(b)

the Panel proposed a confidential check be undertaken by the Case Manager. In letters to both parties dated 14<sup>th</sup> April 2006, the Case Manager requested that the Employer provide:-

- a) the names and addresses of the workers in the proposed bargaining unit; and
- b) job title for each work

and the Union was asked to provide:-

- a) the names and addresses of all Union members currently within their proposed Bargaining Unit;
- b) details of how Union Subscriptions were paid by members, amount paid, and date of last payment; and

- c) a copy of a petition signed by workers in the bargaining unit in favour of recognition.

The Case Manager's letter confirmed that neither the lists nor the petition would be copied to the other party or the Panel.

8. The Employer provided a list which contained names, addresses and job titles of 75 workers it stated were within the Union's proposed bargaining unit. The Union provided a list of 39 union members it stated were within its proposed bargaining unit; computer print outs detailing 33 members' names, membership numbers, addresses, dates of birth, date of joining, method of payment and for those paying by direct debit the Union had noted in pencil the date of last payment. The Union also provided a copy of its petition. The petition was 2 A4 sheets in length, and contained the following statement: "*We the undersigned wish for our employer, Sanmina (SCI) NI Ltd, to enter into a recognition agreement for collective bargaining with Amicus trade union covering Managers and Staff. This petition is completely confidential and your employer will not have access to any of the named contained on it.*" The petition contained two columns per A4 sheet and each column was entitled "*signatures*". The petition was undated.
9. The membership check showed that although the Union had provided a list of 39 union members it stated were within its proposed bargaining unit, 2 of these names were duplicated and 4 did not appear on the Employer's list. Therefore, out of the 33 union members who were common to both the Union's and Employer's list it was established that the membership level was 44% of the proposed bargaining unit. The check of the Union's petition evidence established that although there were 49 workers from within the proposed bargaining unit who had signed the Union's petition 11 were unreadable or duplicates and one name did not appear on the list provided by the Employer. From the remaining 37 names appearing it was established that 49% of workers in the proposed bargaining unit had signed the Union's petition. 10 were non Union Members. A report of the result of the check of the membership level and the check of the petition was circulated to the parties on 26<sup>th</sup> April 2006.

### **Views of the Parties**

10. The Union, in its letter dated 27<sup>th</sup> April 2006, stated that they believed the 4 union members who did not appear on the Employer's list were covered under the bargaining unit. They further advised that because some of the signatures were unreadable that they would be happy for the validity of the petition to be investigated further.
11. Although the Employer did not submit to the Court any written comments in relation to the Case Manager's report it did indicate that without knowing whom the 4 union members were they could not advise as to whether or not they considered them to be covered under the bargaining unit.

## Considerations

12. In deciding whether to accept the application the Panel must decide whether the admissibility and validity provisions referred to in paragraph 3 of this decision are satisfied.
13. The Employer has confirmed, in its response to the Court dated 13<sup>th</sup> April 2006, that it received the Union's original request for recognition dated 20<sup>th</sup> February 2006 and responded on 28<sup>th</sup> February 2006 advising that "*the company was unable to accept the invitation to enter into a voluntary arrangement due to lack of data*". The Employer also stated it had not requested that the Labour Relations Agency should assist. The Union's application was received by the Court on 10<sup>th</sup> April 2006 and a copy of its recognition request to the Employer was received on 13<sup>th</sup> April 2006. The Panel is satisfied on this evidence that the Union made a valid request to the Employer within the terms of paragraphs 5 to 9 of the Schedule and that its application was made in accordance with paragraph 11. Furthermore, on the evidence before it, the Panel is satisfied that the application is not rendered inadmissible by any of the provisions in paragraphs 33 to 35 and paragraphs 37 to 42 of the Schedule. The remaining questions before the Panel are whether 10% of the workers in the Union's proposed bargaining unit are members of the Union, and whether the majority of the workers in the Union's proposed bargaining unit would be likely to favour recognition of the Union for collective bargaining.

### Paragraph 36(1)(a)

14. The Case Manager's check of the Union's membership indicated that 44% of the workers in the proposed bargaining unit were members of the Union. The Employer has disputed that the members of the Union constitute at least 10% of the proposed bargaining unit as they were aware of only 17 employees who paid their union contributions by monthly salary deduction. The Union provided evidence which showed that out of the 33 union members, common to both the Union's and the Employer's lists of workers in the proposed bargaining unit, 20 members paid by check off and 13 by direct debit. The Panel, in accordance with paragraph 36(1)(a) is satisfied that the 10% test is met with regard to the application.

### Paragraph 36(1)(b)

15. The Case Manager's check of the Union's petition against the list of 75 workers provided by the Employer indicated that 37 of the petition signatories were workers from within the proposed bargaining unit, a support level of 49%. If the test of a majority of workers being likely to favour recognition of the Union were a matter of simple arithmetic, then it would require 2 more workers to the 37 petition signatories to show a numerical majority. The Panel is satisfied that on the balance of probabilities it is likely that amongst the 38 other workers, support of recognition would exist to this limited extent. It notes in particular that

there were 6 union members (likely to favour recognition) whose names did not appear on the petition (at least in a readable form) and also that 11 workers signed the petition but their signatures were unreadable. The Panel, in accordance with paragraph 36(1)(b), is satisfied that the majority of the workers constituting the relevant bargaining unit would be likely to favour recognition of the union as entitled to conduct collective bargaining on behalf of the bargaining unit.

## **Decision**

16. For the reasons given above, the Court is satisfied that the application is valid within the terms of paragraphs 5 to 9, was made in accordance with paragraph 11 and is admissible within the terms of paragraphs 33 to 42 of Schedule 1A.

The Industrial Court's decision is therefore that the application is accepted.

*Barry Fitzpatrick*

Mr Barry Fitzpatrick  
Ms Avril Hall Callaghan  
Mr George McGrath

Decision Date: 27<sup>th</sup> April 2006  
Date Issued to Parties: 10<sup>th</sup> May 2006