

Case Ref No: IC-25/2004

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

Diageo Baileys Global Supplies

Introduction

1. Amicus (the Union) submitted an application to the Industrial Court (the Court) dated 14 July 2004 that it should be recognised for collective bargaining by Diageo Baileys Global Supplies (the Company). The Court gave both parties notice of the receipt of the application on 20 July 2004. The Company submitted a response to the Court on 28 July 2004, which was copied to the Union.
2. In accordance with Article 92(A) of the Industrial Relations (Northern Ireland) Order 1992, the IC Chairman established a Panel of the Court to deal with the case. The Court consisted of Professor Barry Fitzpatrick, Chairman, and, as Members, Ms Fiona Cummins and Mr Mervyn Simpson. The Case Manager appointed to support the Court, was Ms Anne-Marie O’Kane.

Issues

3. The Court is required by the Trade Union and Labour Relations (Northern Ireland) Order 1995 to decide whether the Union’s application to the IC is valid within the terms of: Schedule 1A, Article 3, paragraph 5 – 8; 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 is therefore to be accepted.
4. Due to conflicting information supplied by both Parties in respect of the total number of employees in the Union’s proposed bargaining unit, the Panel instructed the Case Manager to conduct a Membership/Majority Likely to Support Check. Under cover of a letter dated 23 July 2004

both Parties were asked to provide the necessary data on a confidential basis to facilitate the check. The results of this check, which were circulated to the Parties showed that the Union had 7 members in the proposed bargaining unit consisting of 35 workers and 9 non-union members had signed a petition in support of the Union's claim for recognition. By letter dated 16 August 2004, the Union claimed that the job titles of confidential administrator and technical administrator which were included in the Employer's staff list should not be included in the proposed bargaining unit.

5. Due to the discrepancy in numbers which became apparent during the Membership/Majority Check the Panel felt unable to apply the validity criteria without seeking further information. The Parties were informed by letter dated 17 August 2004 that the Panel had extended the period in which to decide on the admissibility and validity of the application until 3 September 2004. Details of how the Case Manager proposed to clarify the outstanding issues were communicated to the Parties and she met with the Union and the Employer on 22 August 2004.

6. The results of these meetings were as follows:

The Union's proposed bargaining unit contains 35 employees. Neither the Confidential Administrator nor the Technical Administrator performs any supervisory functions. In relation to union membership within the proposed bargaining unit, one union member has left the company since April 2004. There are therefore 7 Union Members within proposed bargaining unit (20%).

In relation to the Petition, three individuals have left the company since the petition was gathered in April 2004. There are therefore 9 non-union members signing petition (25.7%).

7. The Report containing the above results was circulated to the Parties on 26 August 2004 and comments were requested by 12.00 noon on 31 August 2004.

Considerations

8. The Panel re-convened on 31 August 2004 to consider the application. No comments on the Case Manager's Report dated 26 August 2004 were received from either Party.
9. Based on the information before it, the Panel decided that the majority of employees within the Union's proposed bargaining unit would be likely to favour recognition of the union as entitled to conduct collective bargaining on their behalf. In arriving at this decision the Panel considered an application to the Central Arbitration Committee in respect of *GMB and G Plan Upholstery Ltd* which concluded "... *the Panel must make a judgement that the majority of employees would be likely to favour recognition on the Union. This prediction can never be*

precise. In the Panel's experience, a level of support and membership just below the majority are often indicative of circumstances where in a subsequent ballot, it is shown that a majority of employees favour Union recognition.....".

Decision

10. For the reasons given above, the Industrial Court is satisfied that:
- a) members of the union constitute at least 10% of the workers constituting the proposed bargaining unit;
 - b) 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
 - c) having considered the submissions made by the Parties, the application meets the remaining statutory admissibility and validity criteria.

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

Barry Fitzpatrick

Professor Barry Fitzpatrick
Ms Fiona Cummins
Mr Mervyn Simpson

Decision Date: 31 August 2004
Date Issued to Parties: 6 September 2004