

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

Atlas Communications NI Ltd

Introduction:

1. Amicus (the Union) submitted an application to the Industrial Court (the Court) dated 4 November 2004 that it should be recognised for collective bargaining purposes by Atlas Communications NI Limited (the Company). The Court gave both Parties notice of receipt of the application on 11 November 2004 and copied the application form to the Company. The Company submitted their response to the Court on 17 November, and this 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 Panel consisted of Mr Richard Steele, Chairman, and, as Members, Mr Jim McCusker and Mr Maurice Moroney. The Case Manager appointed to support the Court was Mrs Joanna Calixto.

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. To assist in the determination of two of the admissibility criteria, Paragraph 36(1)(a) (whether 10% of the workers in the proposed bargaining unit are

members of the Union), and paragraph 36(1)(b), (whether a majority of the workers in the proposed bargaining unit are likely to favour recognition of the Union), it was decided that the Case Manager should to conduct a Membership/ Majority likely to Support Check. By a letter dated 12 November 2004 both Parties were asked to provide the necessary data on a confidential basis to facilitate the check. The factual results of this initial check, which were copied to the Parties along with the Case Manager's Report dated 18 November 2004, showed that the Union had 16 Members in the proposed bargaining unit consisting of 32 workers, constituting 50% membership of the proposed bargaining unit.

5. The Union, by a telephone call and a fax dated 22 November 2004, claimed that the remaining 4 members on their list should be included within the bargaining unit, and disagreed with the numbers on the Company's list of workers within the bargaining unit.

Considerations

6. The Court convened on 22 November 2004 to consider the application. 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. The Panel has considered all the evidence submitted by the Company and the Union in making this decision.
7. The Panel is satisfied on the evidence that the Union had 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 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 purposes.

Paragraph 36(1)(a)

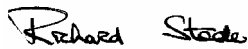
8. The Company has not disputed that members of the Union constitute at least 10% of the proposed bargaining unit. The report on the membership check, dated 18 November 2004, indicated that Union members constitute 50% of the proposed bargaining unit. The Company stated, in its response to the application dated 17 November 2004, that a number of people that the Union had previously considered members, had informed the Company either that they were not members, or that they were resigning from the Union. However, the Court is satisfied that the membership check was conducted using a list of current Union members.

Paragraph 36(1)(b)

9. The Panel notes the Union's concern that the list of workers in the bargaining unit is not correct, and should at least include four more workers who are members of the Union and appear on the Union's list of members. However, the Panel considers this point more relevant for a future decision on the appropriate bargaining unit, as the Union have already clearly demonstrated that the majority of workers in the proposed bargaining unit are likely to support recognition.
10. Having considered all the evidence, the Panel is satisfied that, in accordance with Paragraph 36(1)(b) of the Schedule, a majority of the workers in the proposed bargaining unit would be likely to favour recognition of the Union.

Decision

11. The application is valid within the terms of Paragraphs 5-9, was made in accordance with Paragraph 11 and is admissible within the terms of Paragraphs 33 to 42 of Schedule 1A. The application is therefore accepted by the Industrial Court.



Mr Richard Steele
Mr Jim McCusker
Mr Maurice Moroney

22 November 2004