

Case Number: IC-02/2001
7 August 2001

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 1 A – COLLECTIVE BARGAINING: RECOGNITION

DECISION ON WHETHER TO ACCEPT THE APPLICATION

The Parties:

The Bakers, Food and Allied Workers Union

and

Howell House Bakery.

Introduction

1. The Bakers, Food and Allied Workers Union (the Union) submitted an application to the Industrial Court (IC) dated 23 July 2001 that it should be recognised for collective bargaining by Howell House Bakery (the Company). The IC gave both parties notice of the receipt of the application on 24 July 2001. The company submitted a response to the IC on 2 August 2001 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 Prof Barry Fitzpatrick, Chairman, and, as Members, Mr Andy Snoddy and Mrs Elizabeth Rutherford. The Case Manager appointed to support the Court was Greg Magee.

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, paragraphs 5 – 8; is made in accordance with paragraphs 11 or 12; and is admissible within the terms of paragraphs 33 to 42 of Schedule 1A to the Order, and is therefore to be accepted. In response to the Union's application, the Company submitted that there was one specific area in which the application did not meet those tests:
 - i) it did not believe that the majority of workers constituting the relevant bargaining unit would be likely to favour recognition of the trade union.

The Company did not challenge the Union's position on the remaining tests. The Court has considered all the documentation relating to the remaining tests and is satisfied that the Union's application meets all the other statutory criteria.

4. In respect of point (i) above, paragraph 36(1) (b) of the Schedule provides that, for an application to be admissible, the IC must be satisfied that a majority of the 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. In the Union's proposed bargaining unit of 43, the Court therefore needed to be satisfied that the majority of employees would be likely to favour recognition.
5. Question 5 on the application form submitted to the IC asks for a description of the bargaining unit. The Union describes its proposed bargaining unit as "All production workers, all process workers and all packaging and despatch workers." The Union further stated that there were "43" workers in its proposed bargaining unit of which 24 were its members. The Union's figures were supported by copies of correspondence with the Labour Relations Agency which stated that the Union had 20 members out of a total workforce of 42 on 31 October 2000 and 21 members out of a total workforce of 48 on 13 April 2001. In its response to the Union's application, the Company stated that several members of the workforce had indicated that they did not want to join the Union. In addition to this the Company claimed that the number of Union members employed by Howell House Bakery was much smaller than indicated by the Union.

Conclusions

6. The Court accepted the written evidence submitted by the Union in respect of membership numbers. It was content that the membership checks carried out by the Labour Relations Agency in October 2000 and April 2001 indicated that membership was increasing. The Court was therefore of the view that, on the evidence presented at this stage of the application, the criterion in relation to likely majority support for recognition had been satisfied.

Decision

7. 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

Prof Barry Fitzpatrick
Andy Snoddy
Elizabeth Rutherford

7 August 2001