

Case Number: IC-05/2001
21st 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 Irish Bank Official's Association

and

The Bank of Ireland Group

Introduction

1. The IBOA (the Union) submitted an application to the Industrial Court (IC) dated 3 August 2001 (received 9 August 2001) that it should be recognised for collective bargaining by The Bank of Ireland Group (the Company). The IC gave both parties notice of the receipt of the application on 10 August 2001. The company submitted a response to the IC on 16 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 Professor Barry Fitzpatrick, Chairman, and, as Members, Ms Caroline Whiteside and Mr Joe Bowers. The Case Manager appointed to support the Court was Mrs Pat Stringer.

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 where they would challenge the application:
 - i) the bargaining unit proposed by the 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, the Court is not concerned, at this stage of the statutory process, with a dispute between the parties about the proposed bargaining unit except so far as it impacts on the statutory criteria stipulated in paragraphs 36(1)(a) and 36(1)(b) of the Schedule.
5. **Paragraph 36 (1) (a) & (b)**

Paragraph 36 (1) (a) of the Schedule provides that, for an application to be admissible, the IC must be satisfied that members of the union (or unions) constitute at least 10 per cent of the workers constituting the relevant bargaining unit, and

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 26, the Court therefore needed to be satisfied that the majority of employees would be likely to favour recognition.

6. On the application form submitted to the IC, in its response to question 14 on the form which asks for the number of union members in the proposed bargaining unit, the Union stated that there were 19 members. The Union has, at the request of the IC case manager, provided additional evidence

to support this claim. The Union further stated that there were 26 workers in its proposed bargaining unit. In its response to the Union's application, the Company stated that they held no records of union membership in Commercial Finance.

7. On the application form submitted to the IC, in its response to question 15 on the form which asks for evidence that the majority of the workers in the bargaining unit are likely to support recognition, the Union stated that it was staff at Commercial Finance who first made contact with the IBOA and that they had a signed petition from members stating that they support the Union's application for recognition to conduct collective bargaining on their behalf. The Union has, at the request of the IC case manager, provided additional evidence to support this claim. In its response to the Union's application, the Company re-iterated that they disagreed with the Union's proposed Bargaining Unit.

Conclusions

8. The Court noted the Company's concerns about the Union's description of the proposed bargaining unit. The Court took the view that under Part 1 of the Schedule it was required only to consider the Union's proposed bargaining unit when deciding on validity and admissibility of applications to the IC. For the purposes of Part 1 of the application, the Court therefore accepted the Union's proposed bargaining unit of 26 workers.
9. The Court also noted the additional evidence supplied by the Union on membership and support for recognition. The Court was therefore of the view that on the evidence presented at this stage of the application the criterion in relation to 10% union membership and the criterion in relation to likely majority support for recognition have been satisfied.

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

Caroline Whiteside

Joe Bowers