

Case Number: IC-06/2001
24 September 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 Amalgamated Engineering and Electrical Union (AEEU)

and

EM Solutions

Introduction

1. The AEEU (the Union) submitted an application to the Industrial Court (IC) dated 7 September 2001 that it should be recognised for collective bargaining by EM Solutions (the Company). The IC gave both parties notice of the receipt of the application on 10 September 2001. The company submitted a response to the IC on 17 September 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 Mr Richard Steele, Chairman, and, as Members, Mr Joe Bowers and Mr George McGrath. The Case Manager appointed to support the Court was Ms Anne-Marie O’Kane.

Issues

3. The Court is required by the 1995 Order 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.
4. In response to the Union's application the Company while not challenging the Union's position drew the Court's attention to some discrepancies in Union membership figures.
5. The Court through the Case Manager asked the Union to provide further documentary evidence to support their contention that a majority of workers in their proposed bargaining unit would be likely to support recognition. The Union provided evidence of a further 19 new members and confirmed that they had 196 members within their proposed bargaining unit. All Union subscriptions are paid through a check-off system and therefore the employer is aware of Union membership numbers.
 - (i) Paragraph 36 (1) (a) of the Schedule provides that, for an application to be admissible, the IC must be satisfied that at least 10 per cent of the workers constituting the proposed bargaining unit are union members.
 - (ii) 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 approximately 400, the Court therefore needed to be satisfied that at least 201 employees would be likely to favour recognition.
 - (iii) The remaining paragraphs relating to admissibility should be satisfied.

Conclusions

6. In respect of point (i) above the Union provided evidence that they had 196 members within the proposed bargaining unit of 392. This evidence satisfied the Court that the 10% Rule was satisfied.

In respect of point (ii) above once initial discrepancies over membership figures were clarified the Case Manager established that the Union had 196 members in the proposed bargaining unit of 392 employees, therefore the Court was of the opinion that the majority likely to support criteria was satisfied.

In respect of point (iii) above the Court has considered all the documentary evidence before it and is satisfied that the Union's application meets the remaining statutory criteria.

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) 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) that, 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.



Richard Steele
Joe Bowers
George McGrath

24 September 2001