

**Case Number: IC-07/2001**  
**21 November 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 Transport & General Workers Union (ATGWU)

and

Montracon Ltd

**Introduction**

1. The ATGWU (the Union) submitted an application to the Industrial Court (the Court) dated 5 November 2001 that it should be recognised for collective bargaining by Montracon Ltd (the Company). The Court gave both parties notice of the receipt of the application on 7 November 2001. The company submitted a response to the Court on 14 November 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 Peter Williamson, who on declaration of a potential conflict was replaced by Mr Bob Gourley 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. By letter dated 13 November 2001 the Amalgamated Engineering and Electrical Union (AEEU) notified the Court that an existing collective bargaining agreement was in place between themselves and the Company. The Court through the Case Manager asked the AEEU and the Company to provide further documentary evidence, which would substantiate this claim.

## **Evidence**

5. The AEEU supplied the Court with a copy of the original Memorandum of Agreement with Freuhauf Ltd. This agreement carried over under TUPE regulations when Montracon Ltd purchased the Company from General Trailers (NI) Limited. They also supplied copies of recent correspondence between the Company and themselves and a list of Company employees who were AEEU members.
6. The Company by letter dated 20 November 2001 confirmed that their purchase of General Trailers (NI) Limited was subject to TUPE regulations and that they had been informed of an existing collective bargaining agreement with AEEU and had not sought to challenge this.
7. The Court asked the Case Manager to clarify which site the collective bargaining agreement pertained to ie. Mallusk Road, Newtownabbey or Antrim Road, Newtownabbey. The Case Manager confirmed with the Company's Finance Director that the agreement was in respect of premises at Antrim Road, Newtownabbey only.
8. Having satisfied itself that the collective bargaining agreement between AEEU and Montracon Ltd did not include the site at Mallusk Road, Newtownabbey the Court went on to apply the remaining admissibility and validity criteria.

## **Considerations**

9. (i) Paragraph 36 (1) (a) of the Schedule provides that, for an application to be admissible, the Court 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 Court 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.
- (iii) The remaining paragraphs relating to admissibility should be satisfied.

### **Conclusions**

9. In respect of point (i) above the Union provided evidence that they had 74 members within the proposed bargaining unit of 108. This evidence satisfied the Court that the 10% Rule was satisfied.

In respect of point (ii) above 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**

10. For the reasons given above, the 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 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 Court's decision is therefore that the application is accepted.



Richard Steele  
Bob Gourley  
George McGrath

21 November 2001

