

Case Number: IC-11/2002
19 April 2002

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:

AMICUS/AEEU

and

Desmond Motors

Introduction

1. AMICUS/AEEU (the Union) submitted an application to the Industrial Court (the Court) dated 5th April 2002 that it should be recognised for collective bargaining by Desmond Motors (the Company). The Court gave both parties notice of the receipt of the application on 5th April 2002. The company submitted a response to the Court on 15th April 2002, 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 Barry Fitzpatrick, Chairman, and, as Members, Ms Fioma Marshall and Mr Maurice Moroney. The Case Manager appointed to support the Court, was Mrs Patricia 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 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 25, 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 hourly paid employees in the Body Shop and Garage." The Union further stated that there were "25" workers in its proposed bargaining unit of which 18 were its members. The Union's figures were supported by a copy of a union membership list containing 18 identification numbers. In its response to the Union's application, the Company stated that several members of the workforce had indicated that membership of the Union was undertaken under duress and others did not wish to continue membership.

Conclusions

6. The Court accepted the written evidence submitted by the Union in respect of membership numbers. 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

Barry Fitzpatrick
Fiona Marshall
Maurice Moroney

19th April 2002