

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 1A – COLLECTIVE BARGAINING: RECOGNITION

DECISION ON WHETHER TO ACCEPT THE APPLICATION

The Parties:

Amicus/AEEU

and

Ballyrobert Ltd

Introduction

1. Amicus/AEEU (the Union) submitted an application to the Industrial Court (IC) dated 5 August 2002 that it should be recognised for collective bargaining by Ballyrobert Ltd (the Company). The IC gave both parties notice of the receipt of the application on 9 August 2002. The Company submitted a response to the IC on 27 August 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 Professor Barry Fitzpatrick, Chairman, and, as Members, Ms Avril Hall-Callaghan and Mr Irvine McKay. 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: Article 3 and Schedule 1A, 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 correspondence dated 8 July 2002 from the Union to the Company the proposed Bargaining Unit was described as ‘employees who work in the Dealer Garage Workshop at your Mallusk site. The employees concerned are all hourly paid and work as mechanics’. However, in its application to the IC the Union described the Bargaining Unit as ‘All hourly paid mechanics who work in the Dealer Garage Workshop at Ballyrobert Ltd, Mallusk. Also included in the bargaining unit are Quality Control Inspector (Hourly Paid) and the Workshop Supervisor and Service Advisor who are salaried and deal directly with the Dealer Garage Workshop’.
5. According to paragraph 2(3) of Schedule 1A, “references to the proposed bargaining unit are to the bargaining unit proposed in the request for recognition”. The Court considered the discrepancy between the Union’s letter of request to the employer for statutory recognition and the application form submitted to the Industrial Court and whether it was possible to find a consistent interpretation of both. The Court was not able to re-interpret the Union’s letter of request to make it consistent with the application form, given the statement in the letter that the bargaining unit consisted of employees who are “all hourly paid and work as mechanics”. Given this inconsistency, the Court did not consider it appropriate to use the information provided in the application form to determine whether the proposed bargaining unit, as set out in the letter of request, satisfied the validity and admissibility tests in the Schedule. In these circumstances, the Court concluded that the application must be rejected.

Decision

6. The Court’s decision is that, since it would not be appropriate for the tests specified under Paragraph 36 of the Schedule to be carried out, the application is not admissible and therefore is not accepted.

Barry Fitzpatrick

Professor Barry Fitzpatrick
Ms Avril Hall-Callaghan
Mr Irvine McKay

Date of Decision: 28 August 2002
Date Issued to Parties: 09 September 2002