

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

and

Atlas Communications NI Limited

Introduction:

1. Amicus (the Union) submitted an application to the Industrial Court (IC) dated 3 September 2004 that it should be recognised for collective bargaining by Netcom/Atlas Communications (the Company). The IC received the application on the 24 September, and acknowledged receipt of the application to both parties on the same day. The Company submitted a response to the IC on 1 October 2004, 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 Maurice Moroney and Mr Jim McCusker. The Case Manager appointed to support the Court was Mrs Joanna Calixto.

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 the letter of request dated 10 May 2004 from the Union to the Company the proposed bargaining unit was described as 'engineers working in both Atlas and Netcom and also Stores employees working in both Atlas and Netcom'. However, in its application to the IC the Union described the proposed bargaining unit as 'All engineers working in both Netcom/Atlas

and also all stores employees working in both Netcom/ Atlas excluding managers in both stores and engineering departments’.

5. The Court noted the discrepancy between the Company’s name and the name used by the Union on the application form. However, the Court on this occasion did not take this into consideration when reaching its decision.
6. 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 IC. Given the discrepancy, 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:

7. 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.



Mr Richard Steele
Mr Maurice Moroney
Mr Jim McCusker

Date of Decision: 8 October 2004
Date Issued to Parties: 13 October 2004