

Case Ref No: IC-46/2011

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:

Unite the Union

And

Windermere Supported Living Service

Background

Unite the Union submitted an application to the Court on 14th October 2011 for recognition of a trade union in respect of a bargaining unit. The location of the bargaining unit was “*Windermere Supported Living Service, Lisburn*” and the description was:

“the majority of senior support and support workers in the Windermere Supported Living Service. The bargaining unit does not consist of clerical administration or management grades in the above named area above senior support worker.”

The Court gave both parties notice of the receipt on 14th October 2011 and the Employer submitted a response via e-mail and registered post on 25th October 2011.

In accordance with Article 92A of the Industrial Relations (Northern Ireland) Order 1992, the Chairman of the Court established a Panel to deal with the case. The Panel consisted of Mr Barry Fitzpatrick, Mr Maurice Moroney and Mr Bob Gourley. The Case Manager appointed to support the Court was Mr Paul Cassidy.

The Panel met on 28th October 2011 to determine, within the acceptance period set out in paragraph 15(6) of Schedule 1A to the Trade Union and Labour Relations (Northern Ireland) Order 1995:

- the validity of the request under the terms of paragraphs 5 – 9 of that Schedule;
- whether the application to the Court was made in accordance with paragraphs 11 and 12;
- the application’s admissibility within the terms of paragraphs 33 – 42.

Decision

The Court considered the application by the Union in this case and concluded that the application was inadmissible under paragraph 36(1)(a) of Schedule 1A as it was not possible to ascertain whether "members of the union (or unions) constitute at least 10 per cent of the workers constituting the relevant bargaining unit". This was because the description of the proposed bargaining unit in the letter of request, and in the application form, was too imprecise for this assessment to be undertaken.

The Court also doubted whether the letter of request was valid under paragraph 8(b) for the same reason.

Barry Fitzpatrick

Mr Barry Fitzpatrick
Mr Maurice Moroney
Mr Bob Gourley

Decision Date: 28th October 2011
Date Issued to Parties: 14th November 2011