

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 FORM OF BALLOT

The Parties:

BFAWU

And

HOWELL HOUSE BAKERY

Introduction

1. The BFAWU (the Union) submitted an application to the Industrial Court (the Court) dated 23 July 2001 that it should be recognised for collective bargaining purposes by Howell House Bakery (the Company) for ‘all production workers, all process workers and all packaging and dispatch workers’. The Court gave both parties notice of receipt of the application on 24 July 2001 and invited responses from the employer in regard to the application.
2. In accordance with Article 92(A) of the Industrial Relations (Northern Ireland) Order 1992, the Industrial Court Chairman established a panel to deal with the case. The Panel consisted of Professor Barry Fitzpatrick, Chairman, and, as members Mr Andy Snoddy and Mrs Elizabeth Rutherford. The Case Manager appointed to support the Court was Anne-Marie O’Kane.
3. The Panel appointed to consider the above application decided on 7 August 2001 that the application was admissible. The appropriate bargaining unit was agreed between the parties and the Court was notified of same on 4 September 2001.

4. At a hearing on 12 November 2001 the Parties were notified that the results of a membership check carried out by the Case Manager indicated that the Union had 50% membership within the Bargaining Unit. The Parties were consequently informed that a secret ballot would be conducted and invited submissions from the Parties on the form of ballot and whether an extension to the balloting period was required. The Court also advised the Parties that it would wait until the end of the notification period of ten working days, as specified in paragraph 24(5) of Schedule 1A of the Employment Relations (Northern Ireland) Order 1999, before arranging a secret ballot.
5. The notification period under paragraph 24(5) of the Schedule has now elapsed. The Court has not been notified by either party singly or by both jointly that they do not want the ballot to be held, as per paragraph 24(2) of the Schedule.
6. The Court met today to decide on the form of ballot and on whether an extension was necessary to the 20 day period in which the ballot was to be conducted.

Considerations

7. In deciding the type of ballot to be held, ie. postal, workplace or combined, the Court must take into account the following considerations under paragraph 25(5) of the Schedule:
 - (a) the likelihood of the ballot being affected by unfairness or malpractice if it were conducted at a workplace;
 - (b) costs and practicability;
 - (c) such other matters as the Court considers appropriate.

Submissions

8. In its submission dated 26 November 2001, the Union stated that it would prefer a postal ballot and that they would not be seeking an extension to the 20 day period in which the ballot must be conducted. The Union did not elaborate on their submission.
9. In its submission dated 23 November 2001, the Company stated that it would favour a combined ballot, and requested an extension to the 20 day period in which the ballot must be conducted, based on the fact that the 20 working days period would include the Christmas and New Year holidays.

Determinations

10. The Court having considered the limited submissions from the Parties, paragraph 25(6) of the schedule and taking into account the industrial relations experience of the Panel, decided that a combination ballot would ensure the highest possible return.
11. The following persons would be entitled automatically to a postal ballot:-

Those on Maternity Leave;
Those on Long-Term Sick Leave; and
Those with Pre-Booked Holidays.

All other workers in the bargaining unit would be given the opportunity to apply for a postal vote if they were not going to be in attendance on the day of the ballot.
12. The Polling Station would be open on a 8 January 2002 between 10.00 am and 12.00 noon.
13. In the Court's opinion an extension to the 20 day balloting period is not required. The name of the Qualified Independent Person appointed to conduct the ballot will be notified to the Parties shortly as will the period within which the ballot is to be held.
14. The Court will as a matter of course take into consideration the question of costs when appointing a QIP.

Decision

15. The Court's decision is that a secret ballot should be conducted by a combination of workplace and postal voting and an extension to the 20 day period in which to conduct the ballot is not required.

Barry Fitzpatrick

Professor Barry Fitzpatrick (Chairman)
Mr Andy Snoddy
Mrs Elizabeth Rutherford