

THE INDUSTRIAL COURT
THE INFORMATION AND CONSULTATION OF EMPLOYEES
REGULATIONS (NORTHERN IRELAND) 2005
DECISION ON A COMPLAINT UNDER REGULATION 22(1)

Mr J Sheridan

and

Montupet UK Ltd

Background

1. Mr J Sheridan, an information and consultation representative in Montupet UK Ltd (the Employer), submitted a complaint to the Industrial Court (the Court) dated 13th April 2007 under regulation 22(1) of the Information and Consultation of Employees Regulations (Northern Ireland) 2005 (the Regulations) alleging failure on the part of the employer to comply with the negotiated agreement in relation to direct communication with the workforce. The Court gave Mr Sheridan and the Employer notice of receipt of the application on 16th April 2007. The Employer submitted a response to the Court on 25th April 2007, which was copied to Mr Sheridan.
2. In accordance with Article 92(A) of the Industrial Relations (Northern Ireland) Order 1992, the Industrial Court Chairman established a Panel of the Court to deal with the case. The Court consisted of Mr Barry Fitzpatrick, Chairman, and, as Members, Mr Irvine McKay and Mr Jim McCusker. The Case Manager appointed to support the Court was Ms Brenda Slowey.
3. The Court felt the best way to proceed in this case was to arrange an informal meeting between the Court and the Parties to ascertain how many issues were in dispute and as to how it would proceed in this case. This meeting took place on 7th June 2007 in the Wellington Park Hotel, Belfast.

Considerations

4. Regulation 36 of the Information and Consultation of Employees Regulations (Northern Ireland) 2005 provides:-

Labour Relations Agency

“36.- (1) If on receipt of an application or complaint under these Regulations the Industrial Court is of the opinion that it is reasonably likely to be settled by conciliation or other assistance provided by the Agency in accordance with paragraph (2), it shall refer the application or complaint to the Agency and shall notify the applicant or complainant and any persons whom it considers have a proper interest in the application or complaint accordingly.

(2) Where the Industrial Court refers an application or complaint to the Agency under paragraph (1), Article 84 of the 1992 Order (functions of the Agency in relation to trade disputes) shall apply, and the Agency may assist the parties to achieve a settlement, as if –

- (a) the dispute or difference between the parties amounted to a trade dispute as defined in Article 127 of the Trade Union and Labour Relations (Northern Ireland) Order 1995(a); and*
- (b) the parties to the application or complaint had requested the assistance of the Agency under Article 84 of the 1992 Order.*

(3) If the Agency does not consider it appropriate to offer its assistance in accordance with paragraph (2) it shall inform the Industrial Court.

(4) If the Agency has offered the parties its assistance in accordance with paragraph (2), the application or complaint referred has not thereafter been settled or withdrawn, and the Agency is of the opinion that no provision or further provision of its assistance is likely to result in a settlement or withdrawal, it shall inform the Industrial Court of its opinion.

(5) If –

- (a) an application or complaint is not referred to the Agency; or*
- (b) it is so referred, but the Agency informs the Industrial Court as mentioned in paragraph (3) or (4),*

5. Having considered the complaint, the Employer's response to this, along with Mr Sheridan's comments to the Employer's response and oral representations made by both parties at the meeting, the Panel was of the opinion that there was a reasonable likelihood that this complaint could be settled with the assistance of the LRA.

Decision

6. For the reasons given above, the Court's decision is to refer this complaint to the LRA under regulation 36(1) of the Information and Consultation of Employees Regulations (Northern Ireland) 2005.
7. By letter dated 18th June 2007 both parties were informed of this decision, with the employer being asked to provide the names and addresses of all interested parties, as referred to in regulation 36(1), in order that this decision can be relayed to them. The names and addresses of all interested parties had previously been agreed between the Parties at the meeting which was held on 7th June 2007.
8. This complaint was referred to the LRA under regulation 36(1) of the Information and Consultation of Employees Regulations (Northern Ireland) 2005 by letter dated 19th June 2007.

Barry Fitzpatrick

Mr Barry Fitzpatrick
Mr Irvine McKay
Mr Jim McCusker

Decision Date: 7th June 2007
Date Issued to Parties: 25th June 2007