

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:

Bakers, Food & Allied Workers Union

and

Doherty & Gray

Introduction:

1. The Bakers, Food & Allied Workers Union submitted an application to the Industrial Court (the Court) dated 15th March 2006 for recognition at Doherty & Gray, Woodside Industrial Estate East, Woodside Road, Ballymena, BT1 2BG. The Court received the application on 20th March 2006 and acknowledged receipt of the application to both parties on the same day. The Company submitted a response to the Court on 27th March 2006, which was copied to the Union.
2. In accordance with Article 92(A) of the Industrial Relations (Northern Ireland) Order 1992, the Chairman established a Panel of the Court to deal with the case. The Court consisted of Professor Barry Fitzpatrick, Chairman, and, as Members, Mr Mervyn Simpson and Mr Joe Bowers. The Case Manager appointed to support the Court was Ms Brenda Slowey.

Issues:

3. The Court is required by the 1995 Order to decide whether the Union's application to the Court 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. The Court noted that the Union's initial letter of request was received by the Employer on 6th March 2006 and the application submitted to the Court was dated 15th March 2006. Paragraphs 10 and 11 of Schedule 1A refer to "the first period", namely a 10 working day period which starts on the day after that on which the employer receives the request for

recognition. These paragraphs are concerned with providing a period of time during which the union and employer have an opportunity to either agree a bargaining unit and that the union is to be recognised to conduct collective bargaining on behalf of the unit, or for the employer to inform the union that it does not accept the request but is willing to negotiate. Alternatively the employer may refuse the request or fail to respond.

In this case the 10 working day period commenced on 7th March 2006 and ended on 21st March 2006 and the employer failed to respond during that period.

5. The Court gave thorough consideration to paragraphs 11(1)(a) and 11(1)(b) of Schedule 1A. Although it felt that paragraph 11(1)(a) may be open to interpretation, in the context of paragraphs 10 and 11 it concluded that the Union's application was submitted prematurely.
6. Given this conclusion, the Court concluded that the application was not made in accordance with paragraphs 11 or 12 and in these circumstances determined that the application must be rejected.

Decision:

7. The Court's decision is that, in light of the provisions of paragraph 10 and 11 of the Schedule, the application is not admissible and therefore is not accepted.

Barry Fitzpatrick

Professor Barry Fitzpatrick
Mr Mervyn Simpson
Mr Joe Bowers

Date of Decision: 3 April 2006
Date Issued to Parties: 7 April 2006