

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

Quinn Glass

DECISION

Introduction

1. Unite the Union submitted an application to the Industrial Court (the Court), received on 8th November 2012, for recognition at Quinn Glass, Derrylin, Co Fermanagh, N Ireland, BT92 9AU. The bargaining unit description was,

“IS Operators, Charge Hands, Line Controllers, Palletise Operators, Warehouse, Resort Teams, DePauls, IS maintenance, Hot End Job Change, Cold End Job Change, Shift-Setters, Control Room Operators, General Maintenance Training, Stores and Quality Control – Not including: Electricians, Gen Engineers, Supervisors, Management Middle/Senior, Temporary and Agency workers”,

and the location was given as *“Derrylin Glass Plant”*.

The Court gave both parties notice of the application on 9th November 2012. The Employer submitted a response to the Court on 20th November 2012.

2. In accordance with Article 92(A) of the Industrial Relations (Northern Ireland) Order 1992, the Industrial Court Acting Chairman established a Panel of the Court to deal with the case. The Court consisted of Mr Barry Fitzpatrick, Chairman, and, as Members, Mr Robin Bell and Mr Neal Willis. The Case Manager appointed to support the Court was Mr Paul Cassidy.

Background

3. The Union’s application stated that the date of request to the Employer was 10th September 2012. It also stated that 230 workers in total were employed by the Employer, the number of workers in the proposed bargaining unit was 179 and that the number of members in the proposed bargaining unit was 86.

4. In its response the Employer stated that it employed a total of 430 workers. The Employer did not agree with the Union's proposed bargaining unit, adding there were 282 workers employed in the proposed bargaining unit on 9th October 2012.

Membership and petition check

5. To assist the determination of two of the admissibility criteria specified in the Schedule, i.e:

- a) whether members of the union (or unions) constitute at least 10 per cent of the workers constituting the relevant bargaining unit (paragraph 36(1)(a); and
- b) where a majority of the workers constituting the relevant bargaining unit would be likely to favour recognition of the union (or unions) as entitled to conduct collective bargaining on behalf of the bargaining unit (paragraph 36(1)(b))

the Panel proposed a confidential check be undertaken by the Case Manager. In letters and e-mails to both parties dated 5th December 2012, the Case Manager requested that the Employer provide:-

- c) the names and addresses of the workers in the proposed bargaining unit on the date of Monday 10th December 2012; and
- d) job title for each worker

and the Union was asked to provide:-

- e) the names and addresses of all union members currently within their proposed bargaining unit on the date of Monday 10th December 2012;
- f) details of how union subscriptions were paid by members, amount paid, and date of last payment; and
- g) a copy of a petition signed by workers in the bargaining unit in favour of recognition.

The Case Manager confirmed that neither the lists nor the petition would be copied to the other party or the Panel.

6. The Employer provided a list of 281 workers in the Union's proposed bargaining unit, across 53 different job titles. The Union provided a petition with 154 hand-written names accompanied by a signature and job section. The Union also provided a membership list containing 86 names, addresses and membership numbers.

7. The membership check showed that there were 82 union members on the Employer's list, or 29.18% of the proposed bargaining unit. Furthermore, there were 132 signatures on the petition which were also on the Employer's list, or 46.98% of the proposed bargaining unit, of which 64 (22.77%) were not currently members of the Union.

Views of the Panel

8. The Panel considered the considerable discrepancy between the figures provided by the Parties on the number of workers in the proposed bargaining unit. On the basis of the figures provided by the Employer, the membership check established that 29.18% of the workers in the proposed bargaining unit were union members.

9. The Panel also considered the petition provided by the Union. It noted that the petition was dated "10th June 2012 closing on 21st June 2012". In the circumstances in which the Parties

had engaged the services of the Labour Relations Agency, the Panel accepted the petition as a valid expression of the wishes of those workers who had signed it.

10. In these circumstances, the percentage of workers in the proposed bargaining unit, who had signed the petition, and were not union members, was 22.77%. This brought the percentage of those 'likely to favour recognition of the Union as entitled to conduct collective bargaining on behalf of the bargaining unit' up to 51.95%.

11. In light of the discrepancy between the figures provided by the Parties, the Panel considered holding a hearing to clarify this matter. However, it decided, on the basis of the available figures, to accept the application, on the basis that this discrepancy would be resolved at the next stage of the process, where either the Parties would agree an appropriate bargaining unit or the panel would determine whether the proposed bargaining unit was an appropriate one.

Considerations

12. The Court is required by the Trade Union and Labour Relations (Northern Ireland) Order 1995 to decide whether the Union's application to the Court is valid within the terms of Schedule 1A, paragraphs 5 – 9, is made in accordance with paragraphs 11 or 12 and is admissible within the terms of paragraph 33 to 42 of Schedule 1A to the Order, and therefore should be accepted.

13. The Panel considered all the documentation relating to the tests and was satisfied that the Union's application meets all the statutory criteria.

Decision

14. For the reasons given above, the Industrial Court is satisfied that:

- a. members of the Union constitute at least 10% of the workers constituting the proposed bargaining unit;
- b. a majority of workers constituting the proposed bargaining unit would be likely to favour recognition of the Union as entitled to conduct collective bargaining on behalf of the bargaining unit; and
- c. having considered the submissions made by the parties, the application meets the remaining admissibility and validity criteria.

The Industrial Court's decision is therefore that the application is accepted.

Barry Fitzpatrick

Mr Barry Fitzpatrick
Mr Neal Willis
Mr Robin Bell

Decision Date: 20th December 2012
Date Issued to Parties: 18th February 2013