

**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 (Drivers)

**DECISION**

**Introduction**

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

*“Quinn Glass Lorry Drivers attached to Quinn Group however working as delivery drivers Quinn Glass plant. No of which is 32. Not including temporary or casual including Quinn Group drivers brought in from the Group to cover holidays and casual absence”*,

and the location was given as *“Lorry drivers based in Quinn Glass Derrylin Site”*.

The Court gave both parties notice of the application on 9<sup>th</sup> November 2012. The Employer submitted a response to the Court on 20<sup>th</sup> 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 10<sup>th</sup> August 2012 and that there were 32 workers in the proposed bargaining unit, of which 26 were union members. It did not state the total number of workers.

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 37 Quinn Glass Drivers at the Derrylin site.

### **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 5<sup>th</sup> 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 10<sup>th</sup> 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 10<sup>th</sup> 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 36 workers in the proposed bargaining unit. The Union provided a petition with 14 hand-written names accompanied by a signature and job section. The Union also provided a membership list containing 27 names, addresses and membership numbers.

7. The membership check showed that there were 23 union members on the Employer's list, or 63.89% of the proposed bargaining unit. There were also 14 signatures on the Union's petition, of which two were not members of the Union, a further 5.56%.

### **Views of the Panel**

8. The Panel considered the outcome of the membership check which established that 69.44% of the workers in the proposed bargaining unit were union members.

9. In light of this outcome, the Panel was satisfied that both the membership validity test and the 'majority likely to' validity test were satisfied.

## Considerations

10. 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.

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

## Decision

12. 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: 20<sup>th</sup> December 2012  
Date Issued to Parties: 18<sup>th</sup> February 2013