

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

Magellan Aerospace

DECISION

Introduction

1. Unite the Union submitted an application to the Industrial Court (the Court) on 31st May 2013, for recognition at Magellan Aerospace, 11 Tullykevin Road, Greyabbey, BT22 2QE. The bargaining unit description was, “*All employees (up to level of manager) within the shop floor, clerical and engineering groups*” and the proposed bargaining unit’s location was, “*Magellan site at 11 Tullykevin Road Greyabbey*”.

The application was copied to the employer on 31st May 2013 and a completed response questionnaire was received 6th June 2013.

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 Pat Masterson. The Case Manager appointed to support the Court was Mr Paul Cassidy.

Background

3. The Union’s application gave the total number of workers employed by the employer as 76, the number of workers in the bargaining unit as 68 and the number of union members in the bargaining unit as 41. It was accompanied by a letter from the union to the employer dated 11th March 2013, which contained the originating request, a response from the employer, dated 30th April 2013 and a blank petition form. The Union’s originating letter of request described the proposed bargaining unit in identical terms as the application form.
4. The employer’s response questionnaire stated that it received the union’s originating letter on 11th March 2013 and that the employer responded in writing on 30th April 2013. The employer confirmed that it received a copy of the union’s application to the Court on 31st

May 2013; that it had not previously agreed a bargaining unit with the union and that it did not now agree with the proposed bargaining unit. The response gave the total number of workers as 77 on the day the Union's application was received. The employer gave the number of workers employed across the shop floor, clerical and engineers as 79 in March 2013 and 81 in June 2013. The employer further stated that it disagreed with the Union's figures on the numbers of employees in the bargaining unit.

Membership and petition check

5. In order to assist in the determination of the admissibility tests in Schedule 1A to the Trade Union and Labour Relations (Northern Ireland) Order 1995, the Chairman instructed the Case Manager to conduct a membership check. The following information was requested from the parties:
 - From the Employer - a list of the names and addresses of the workers in the proposed bargaining unit on the date of Thursday 13th June 2013 and the job title for each worker,
 - From the Union - the names and addresses of all Union members currently within their proposed bargaining unit on the date of Thursday 13th June 2013, details of how Union subscriptions are paid by members, amount paid, date of last payment and a copy of a petition signed by workers in the bargaining unit in favour of recognition.

The parties agreed to supply the information by close of play 14th June 2013.

Information received

6. On 11th June 2013 the Court received the following from the union:
 - a membership list containing 41 names, addresses, membership numbers, job descriptions, details of payment method and last date paid. Two members had arrears of four weeks and all paid by direct debit except one, which was marked "cheque/cash".
 - a two-page petition with 42 hand-written names accompanied by a signature and section. Both petition sheets had printed across the top, *"We the undersigned employees of Magellan Aerospace (Greyabbey) Limited would wish Unite the Union to be recognised in order to collectively bargain on our behalf on pay, hours and holidays."*
7. On 13th June 2013 the Court received the following from the employer:
 - a list entitled, "weekly employee contact details 2013 as at 11th June", containing 69 names, addresses and department.
 - a list entitled, "monthly employee contact details 2013 as at 11th June", containing 14 names, addresses and department.
8. Both parties confirmed to the Case Manager that the figures provided to the Court had not changed on 13th June 2013, which was the actual date of the membership check. A copy of the section of the Union's rulebook dealing with arrears was requested from the Union. It confirmed that the two members in arrears were still entitled to the benefits of union membership.

Results of Membership check

9. The membership check showed that there were 41 union members on the Employer's lists, or 49.39% of the proposed bargaining unit. Also, there were 6 signatures on the petition which were not on the Employer's lists, representing a further 7.22% of the proposed bargaining unit, giving a total level of support for the union in the proposed bargaining unit of 83 workers is 47 or 56.62%

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 met 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. 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 Pat Masterson
Mr Robin Bell

Decision Date: 25th June 2013
Date Issued to Parties: