

**THE INDUSTRIAL COURT**  
**THE TRADE UNION AND LABOUR RELATIONS (NORTHERN IRELAND)**  
**ORDER 1995**  
**SCHEDULE 1A – COLLECTIVE BARGAINING – RECOGNITION**  
**DECLARATION THAT THE UNION IS NOT ENTITLED TO BE RECOGNISED**

Bakers, Food and Allied Workers Union

and

Doherty & Gray

**Introduction**

1. The Bakers, Food and Allied Workers Union (the Union) submitted an application to the Industrial Court (the Court) dated 5<sup>th</sup> April 2006 for recognition at Doherty & Gray, Woodside Industrial Estate East, Woodside Road, Ballymena BT42 4HX, for a bargaining unit consisting of *“All hourly paid production workers in the Boning Hall”*. The Court gave both parties notice of the receipt of the application on 5<sup>th</sup> April 2006. The Employer submitted a response to the Court on 12<sup>th</sup> April 2006, which was copied to the Union.
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 Mervyn Simpson and Mr Joe Bowers. The Case Manager appointed to support the Court was Ms Brenda Slowey.
3. By a decision dated 27<sup>th</sup> April 2006 the Panel accepted the Union’s application.
4. The Parties then entered a period of negotiation to agree the appropriate bargaining unit. As no agreement was reached by the Parties the Panel determined that the appropriate bargaining unit was the same as that proposed by the Union in its application (described in paragraph 1 of this

decision). This decision was made on 31<sup>st</sup> May 2006 and subsequently relayed to both parties.

5. To assist the Panel in making a decision under either paragraph 22 or 23 of Schedule 1A, on whether a secret ballot should be arranged, the Panel proposed independent checks of the number of workers and level of union membership within the bargaining unit. Information was requested from both the Employer and the Union to enable these checks to be conducted by the Court, and once received and analysed it was apparent that one category of worker within the bargaining unit (ie Boner) did not appear to be hourly paid, which was the bargaining unit description given by the Union in their application and the bargaining unit which the Court had determined as the most appropriate one. The description of a Boner in the Contract of Employment was shown as "*Piece Rate Worker*" and the remuneration showed that "*Wages are paid weekly in arrears on qtrs boned to specification .....*"
6. The Panel requested submissions from both parties in relation to this matter and subsequently determined that a Hearing be arranged to determine:-
  - Whether hourly paid production workers in the Boning Hall should include or exclude Piece Rate Workers; and
  - Consider further submissions on the nature of a secret ballot in the event that this was proven necessary.
7. This hearing took place on Wednesday, 6<sup>th</sup> September 2006 at the Leighinmohr Hotel, Ballymena. The Panel took into consideration both written and oral submissions submitted by both the Employer and Union, prior to and during the course of the hearing, and came to the decision that as the appropriate bargaining unit, as determined by the Panel on 31<sup>st</sup> May 2006, contained three categories of workers, ie "*Supervisor, Boner and Operative*" then these workers constituted the bargaining unit for the purpose of arranging the holding of a ballot under regulation 23 of the Schedule. The Panel also decided that a secret workplace ballot should be held with a postal element for those workers known in advance to be absent from the workplace on the day of the ballot. This decision was relayed to both parties on 13<sup>th</sup> October 2006. Full details of this decision can be found by accessing the Court's website at [www.industrialcourt.gov.uk](http://www.industrialcourt.gov.uk).

## **Ballot**

8. In a letter dated 13<sup>th</sup> October 2006 the Parties were informed by the Court that the Panel would wait for the notification period as specified in paragraphs 24(2) and (5) of the Schedule to end before proceeding with the arrangements for the ballot. The notification period elapsed without the Union or the Employer jointly informing the Court that a ballot was not required.

9. The Panel subsequently directed that Electoral Reform Services should be appointed as the Qualified Independent Person (QIP) to conduct the ballot and the QIP was appointed on 2<sup>nd</sup> November 2006. The QIP was asked by the Court to issue a notice (duly translated into Polish & Ukrainian to accommodate all workers in the bargaining unit) informing all workers that if they wished to request a postal ballot they should do so by 17<sup>th</sup> November 2006, giving specific reasons as to why they would be unable to attend the workplace ballot, which was scheduled for 29<sup>th</sup> November 2006.
10. The QIP subsequently reported that none of the workers in the bargaining unit had requested a postal ballot. The workplace element of the ballot took place in the canteen at Doherty & Gray's premises at Woodside Industrial Estate, Woodside Road, Ballymena on Wednesday, 29<sup>th</sup> November 2006.
11. The QIP reported to the Court on 30<sup>th</sup> November 2006 that, of the 23 workers in the bargaining unit, 22 had voted in the ballot and that there was one spoilt ballot paper. 8 workers (38.1% of those voting) voted to support the proposal that the Union should be recognised by the Employer and 13 workers (61.9% of those voting) voted to reject the proposal. The proportion of workers in the bargaining unit who supported the proposal was 34.8%.
12. In accordance with paragraph 29(2) of the Schedule, the Court informed both Parties, verbally on 1<sup>st</sup> December 2006 with confirmation in writing on 4<sup>th</sup> December 2006, of the result of the ballot.
13. The ballot did not establish that the majority of the workers voting, and that at least 40% of the workers in the bargaining unit, supported the proposal that the Union should be recognised by the Employer for the purposes of collective bargaining within the bargaining unit.

## **Declaration**

14. In accordance with 29(4) of the Schedule, the Court declares that the Union is not recognised by the Employer as entitled to conduct collective bargaining on behalf of the bargaining unit.

*Barry Fitzpatrick*

Mr Barry Fitzpatrick  
Mr Mervyn Simpson  
Mr Joe Bowers

Decision Date: 1<sup>st</sup> December 2006  
Date Issued to Parties: 13<sup>th</sup> December 2006