

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:

Amicus

and

Newfields Industrial Support Services

Introduction

1. Amicus (the Union) submitted an application to the Industrial Court (IC) dated 11 February 2004 that it should be recognised for collective bargaining by Newfields Industrial Support Services (the Company). The IC gave both parties notice of the receipt of the application on 12 February 2004. The Company submitted a response to the IC on 23 February 2004, which was copied to the Union.
2. In accordance with Article 92(A) of the Industrial Relations (Northern Ireland) Order 1992, the IC Chairman established a Panel of the Court to deal with the case. The Court consisted of Mr Richard Steele, Chairman, and, as Members, Ms Avril Hall-Callaghan and Mr Maurice Moroney. The Case Manager appointed to support the Court was Ms Anne-Marie O’Kane.

Issues

3. The Court is required by the 1995 Order to decide whether the Union’s application to the IC 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 Panel instructed the Case Manager to conduct a membership check and both Parties were requested under cover of a letter dated 18 February 2004 to provide the necessary data on a confidential basis in order to facilitate the membership check. The results of this check showed that the Union had 13 members in the proposed bargaining

unit consisting of 19 workers (68%). The Panel decided to extend the acceptance period until 5 March 2004 to afford the Parties the opportunity to comment on the result of the Membership Check and the Case Manager's Report.

5. In response to the Union's application the Company made assertions that the majority of union members would not support Amicus conducting collective bargaining on their behalf. The Company stated that therefore the Union had not met the provisions of paragraph 36(1)(b) of the legislation. The Company did not claim that any of the other admissibility and validity criteria were not met.
6. Presented with conflicting information regarding paragraph 36(1)(b) '*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*' the Panel instructed the Case Manager to interview workers in the proposed bargaining unit to ascertain if they supported the Union's claim for recognition.
7. The Parties were informed of the arrangements for these interviews and neither Party objected to this course of action. The period in which to decide on the admissibility and validity of the application was further extended until 19 March 2004 to enable the interviews to take place.

The interviews were conducted on 11 and 12 of March 2004. Workers in the bargaining unit were individually advised of the role of the Industrial Court, the role of the Case Manager and the stage that this application was at ie. the Court had to decide on whether or not to accept the application and the criteria which had to be met. Workers were also assured of confidentiality. The question posed was "*Would you be likely to favour recognition of Amicus as entitled to conduct collective bargaining in respect of pay, hours and holidays on your behalf?*" The results were as follows:

No of workers in the Unions proposed Bargaining Unit	19
No of workers who participated in the survey	18
No of workers who answered Yes	3
No of workers who answered No	15

8. The statistical result of the interviews was circulated to the Parties on 15th March 2004 and comments were requested by 18th March 2004. Both Parties submitted a response on 16th March 2004.
9. The Panel met on 19th March 2004 and considered both Parties comments on the outcome of the interviews. Based on the information before it, the Panel decided that the application did not meet the criteria

stipulated in paragraph 36(1)(b) and therefore the application was not admissible.

Decision

10. The Panel is therefore satisfied that, in accordance with paragraph 36(1)(b) of Schedule 1A to the 1995 Order, workers constituting the relevant bargaining unit would not be likely to favour recognition of Amicus as entitled to conduct collective bargaining on behalf of the bargaining unit.
11. The Panel's decision is, therefore, that the application is not accepted by the Industrial Court.

Richard Steele

Mr Richard Steele
Ms Avril Hall-Callaghan
Mr Maurice Moroney

Date of Decision: 19 March 2004
Date Issued to Parties: 1 April 2004