

CENTRAL ARBITRATION COMMITTEE
TRADE UNION AND LABOUR RELATIONS (CONSOLIDATION) ACT 1992
SCHEDULE A1 - COLLECTIVE BARGAINING: RECOGNITION
DECISION ON FORM OF BALLOT

The Parties:

Unite the Union

and

Paragon Labels Ltd

Introduction

1. Unite the Union (the Union) submitted an application to the CAC dated 10 September 2013 that it should be recognised for collective bargaining by Paragon Labels Ltd (the Employer) for a bargaining unit which was clarified as comprising "all hourly paid undertaking the following tasks: non food printers, Make Ready Inks; Plain & Simple; Engineering; Digital; Tagging Machine; Printers Edale; Pre Press; Rewinders; Paper; Warehouse & Despatch, at Paragon Labels, Tenens Way, Boston". The CAC gave both parties notice of receipt of the application on 12 September 2013. The Employer submitted a response to the CAC dated 18 September 2013 which was copied to the Union.

2. In accordance with section 263 of the Trade Union and Labour Relations (Consolidation) Act 1992 (the Act), the CAC Chairman established a Panel to deal with the case. The Panel consisted of Mr Chris Chapman, Chairman of the Panel, and, as Members, Mr Paul Gates and Mr Peter Martin. The Case Manager appointed to support the Panel was Nigel Cookson.

3. By a decision dated 14 October 2013 the Panel accepted the Union's application. The parties then entered a period of negotiation in an attempt to reach agreement on the appropriate bargaining unit. No such agreement was reached in the relevant period and so the Panel had to determine the appropriate bargaining unit in this matter. A hearing was held in Derby on 22 November 2013 and in a decision promulgated 10 January 2014 the Panel determined that the appropriate bargaining unit was one comprising all hourly paid workers at the Employer's sites in Enterprise Way, Benner Road and Holland Place (all Spalding), Lealand Way and Tenens Way (both Boston), Norfolk, Cramlington, and Hereford. This bargaining unit differed from that originally proposed by the Union which had been restricted to hourly paid workers at the Tenens Way site in Boston, Lincs.

4. As the determined bargaining unit differed from that proposed by the Union the Panel was required by paragraph 20 of the Schedule to determine whether the Union's application was valid or invalid within the terms of paragraphs 43 to 50. To this end both parties were invited to supply the Panel with written submissions relating to the validity tests.

5. By a decision dated 10 February 2014 the Panel determined that the application was valid for the purposes of paragraph 20 and that the CAC would therefore proceed with the application.

Issues

6. On 10 February 2014, the Panel, satisfied that a majority of the workers constituting the new bargaining unit were not members of the Union, gave notice in accordance with paragraph 23(2) that a secret ballot would be held. The Panel also advised the parties that it would wait until the end of the notification period of ten working days, as specified in paragraph 24(5), before arranging a secret ballot. The parties were also asked for their views on the form the ballot should take.

7. The notification period under paragraph 24(5) of the Schedule ended on 24 February 2014. The CAC was not notified by the Union or by both parties jointly that they did not want the ballot to be held, as per paragraph 24(2).

Union's submissions on the form of ballot

8. In an email dated 20 February 2014 the Union simply said that it would prefer a workplace ballot with postal votes for absentees on the basis that a combined ballot would ensure the greatest possible participation. It was the Union's view that cost was secondary to turnout.

Employer's submissions on the form of ballot

9. In a letter dated 17 February 2014 the Employer expressed a preference for a postal ballot as the only appropriate method of ballot. It explained that the bargaining unit, comprising 548 workers, was a significant size and was spread over eight sites and that it would logistically be difficult for all 548 workers to take part in a workplace ballot at the same time. The cost of administering a workplace ballot for this size and multi-location bargaining unit would be excessive and unnecessary. A workplace ballot would also be likely to cause significant disruption to the business. As a consequence of the complex shift patterns within the company, a workplace ballot would have to remain open for an extended period of time and potentially during the night. The Employer submitted that the cost of organising a workplace ballot would be substantial and disproportionate, given that there was a valid reasonable alternative, being a postal ballot. A postal ballot would also allow workers to vote in a neutral environment and would capture those workers absent from work through illness.

Considerations

10. When determining the form of the ballot (workplace, postal or a combination of the two methods), the CAC must take into account the following considerations specified in paragraphs 25(5) and (6) of the Schedule:

- (a) the likelihood of the ballot being affected by unfairness or malpractice if it were conducted at a workplace;
- (b) costs and practicality;

(c) such other matters as the CAC considers appropriate

11. The parties have put forward two different types of ballot for the Panel to consider. On the one hand the Union has argued for a combination ballot i.e. a workplace ballot with a postal element for known absentees, and on the other, the Employer has submitted that the ballot should be a fully postal ballot and gave reasons for its decision.

12. Having considered the points raised by the parties, the Panel has decided that on the grounds of practicality and cost, which are, contrary to the Union's view, matters that must specifically be taken into account, the appropriate form of ballot in this matter would be a postal ballot. The eight sites that form the new bargaining unit are spread throughout the country from Northumberland to Hereford to Lincolnshire and Norfolk. Conducting a workplace ballot over such geographically dispersed sites would not only be very expensive but it would also be a logistical challenge for any of the approved balloting organisations on the Secretary of State's list. This challenge would be exacerbated by the shift patterns referred to by the Employer in its submissions. In our view it would be far more practical to conduct a postal ballot than a workplace ballot.

Decision

13. The decision of the Panel is that the ballot be a postal ballot.

14. The name of the Qualified Independent Person appointed to conduct the ballot will be notified to the parties shortly as will the period within which the ballot is to be held.

Panel

Mr Chris Chapman, Chairman of the Panel

Mr Paul Gates

Mr Peter Martin.

27 February 2014