

CENTRAL ARBITRATION COMMITTEE

TRADE UNION AND LABOUR RELATIONS (CONSOLIDATION) ACT 1992

SCHEDULE A1 - COLLECTIVE BARGAINING: RECOGNITION

DECLARATION OF RECOGNITION

The Parties:

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GMB

and

Tempay Ltd

Introduction

1. GMB (the Union) submitted an application to the CAC dated 11 September 2014 that it should be recognised for collective bargaining by Tempay Ltd (the Employer) for a bargaining unit comprising “Hourly paid employees on permanent contracts of at least seven hour per week, at Marks and Spencer’s Distribution Depot, Stirling Road, South Marston Industrial Estate, Swindon, Wiltshire, SN3 4TT”. The CAC gave the parties notice of receipt of the application on 15 September 2014. The Employer submitted a response to the application on 17 September 2014.

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 Professor Paul Davies QC FBA, Chairman of the Panel, and, as

Members, Mr Roger Roberts and Mr Paul Talbot. The case manager appointed to support the Panel was Adam Goldstein.

3. By a decision dated 23 October 2014 the Panel accepted the Union's application. On 13 November 2014 the parties confirmed that they had reached agreement that the appropriate bargaining unit was that which was proposed by the Union and, also, that a revised wording would be used to describe that bargaining unit being: "Hourly paid employees on permanent contracts of employment with Tempay Limited that provide for least seven hour per week, and who are presently on assignment at Marks and Spencer's Distribution Depot, Stirling Road, South Marston Industrial Estate, Swindon, Wiltshire, SN3 4TT."

4. On 17 November 2014 the Panel, not being satisfied that a majority of the workers constituting the bargaining unit were members of the Union, gave notice under paragraph 23(2) of the Schedule to the Act (the Schedule) that it intended to arrange for the holding of a secret ballot in which the workers constituting the bargaining unit would be asked whether they wanted the Union to conduct collective bargaining on their behalf. The parties were advised that the Panel would wait until the end of the notification period of ten working days, as specified in paragraph 24, before arranging for the holding of the ballot. The parties were asked for their views on the form the ballot should take.

5. The notification period elapsed without the Union, or the Union and the Employer jointly, informing the CAC that they did not want the CAC to arrange for the holding of the ballot.

6. In an e-mail from the Employer dated 19 November 2014 and an e-mail from the Union dated 25 November 2014, each party stated that their preference was for a postal ballot. The Panel decided that a postal ballot should take place and this decision was communicated to the parties by a letter from the Case Manager dated 26 November 2014.

7. The parties confirmed, on 9 January 2015, that they had reached agreement on the arrangements for the Union's access to the workers in the agreed bargaining unit during the balloting period.

The Ballot

8. On 9 January 2015 Popularis was appointed as the Qualified Independent Person (QIP) to conduct the postal ballot and the parties were notified accordingly. The postal ballot papers were dispatched on 26 January 2015 to be returned by no later than 2pm on 6 February 2015.

9. The QIP reported to the CAC on 6 February 2015 that, of the 520 workers eligible to vote, 393 ballot papers had been returned. Of these, two ballot papers were reported as spoilt, accounting for 0.5% of those voting. Three hundred and eighty three (383), that is 97.46% of those voting, had voted to support the proposal that the Union be recognised for the purposes of collective bargaining with the Employer. Eight (8) workers, or 2.04% of those voting, voted to reject the proposal. The number of votes supporting the proposal as a percentage of the bargaining unit was 73.65%.

10. The CAC informed the Employer and the Union on 9 February 2015 of the result of the ballot in accordance with paragraph 29(2) of the Schedule.

Declaration of Recognition

11. The ballot establishes that a majority of the workers voting, and at least 40% of the workers constituting the bargaining unit, support the proposal that the Union should be recognised by the Employer for the purpose of conducting collective bargaining on behalf of the bargaining unit. This satisfies the conditions under which the CAC must issue a declaration in favour of recognition in accordance with paragraph 29(3) of the Schedule.

12. The CAC accordingly declares that the Union is recognised by the Employer as entitled to conduct collective bargaining on behalf of the bargaining unit comprising: hourly paid employees on permanent contracts of employment with Tempay Limited that provide

for least seven hour per week, and who are presently on assignment at Marks and Spencer's Distribution Depot, Stirling Road, South Marston Industrial Estate, Swindon, Wiltshire, SN3 4TT.

Panel

Professor Paul Davies QC FBA, Chairman of the Panel

Mr Roger Roberts

Mr Paul Talbot

16 February 2015