

24 January 2018

**CENTRAL ARBITRATION COMMITTEE**

**TRADE UNION AND LABOUR RELATIONS (CONSOLIDATION) ACT 1992**

**SCHEDULE A1 - COLLECTIVE BARGAINING: RECOGNITION**

**DECLARATION THAT THE UNION IS NOT ENTITLED TO BE RECOGNISED**

**The Parties:**

Unite the Union

and

Wheelbase Engineering Limited

**Introduction**

1. Unite the Union (the Union) submitted an application to the CAC dated 30 March 2017 that it should be recognised for collective bargaining by Wheelbase Engineering Limited (the Employer) for a bargaining unit comprising "All shop floor workers excluding 2 foremen". The CAC gave both parties notice of receipt of the application on 3 April 2017. The Employer submitted a response to the CAC dated 7 April 2017 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 Professor Kenneth Miller, Chairman of the Panel, and, as Members, Mr David Bower and Ms Virginia Branney. The Case Manager appointed to support the Panel was Kate Norgate.

3. By a decision dated 8 May 2017, the Panel accepted the Union's application and, as no agreement was reached on the bargaining unit, subsequently invited both parties to supply

the Panel with, and to exchange, written submissions relating to the question of the determination of the appropriate bargaining unit. A hearing was held on 25 August 2017. Having carefully considered the parties written and oral submissions the Panel decided that the appropriate bargaining unit was that specified by the Union in its application.

4. By a decision dated 12 October 2017, the Panel then decided that a ballot should be held. The Panel gave notice under paragraph 23(2) of 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 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.

5. The Panel asked for the views of the parties on the form of the ballot and, in a letter dated 19 October 2017, informed the parties that it would be a postal ballot. The parties then reached agreement on access arrangements.

6. The Panel subsequently directed that Electoral Reform Services (ERS) should be appointed as the Qualified Independent Person (QIP) to conduct the ballot.

7. The QIP was appointed on 17 November 2017 and the parties were notified accordingly in a letter of the same date. On 24 November 2017 the Union submitted a complaint to the CAC under paragraph 27A of the Schedule that the Employer had used unfair practices. The Union's complaint was copied to the Employer for comment and by e-mail dated 27 November 2017 the Employer also submitted a complaint to the CAC under paragraph 27A of the Schedule that the Union had used unfair practices. The CAC notified the parties that the ballot would be suspended in order for their complaints to be considered by the Panel. On 8 December 2017 the parties notified the Panel that, with the assistance of Acas, they had agreed on a joint statement to be issued to the workforce and therefore wished to withdraw their complaints.

## **The Ballot**

8. The QIP was re-appointed and the parties were notified accordingly in a letter dated 14 December 2017. The parties were informed that the balloting period would commence on 2 January 2017 and close at noon on 17 January 2017. The postal ballot papers would be dispatched on 3 January 2017 to be returned to the QIP by no later than noon on 17 January 2017.

9. The QIP reported to the CAC on 17 January 2017 that, out of 41 workers eligible to vote, thirty (30) ballot papers had been returned. One (1) ballot paper was found to be spoilt. Fourteen (14) workers, (48.3% of those voting) had voted to support the proposal that the Union should be recognised by the Employer for the purposes of collective bargaining and Fifteen (15) workers (51.7% of those voting) had voted to reject the proposal. The proportion of workers supporting the proposal as a percentage of the bargaining unit was 34.1%.

10. The CAC informed the Employer and the Union on 18 January 2017 of the result of the ballot in accordance with paragraph 29(2) of the Schedule.

## **Declaration that the Union is not entitled to be recognised**

11. The ballot did not establish that a majority of workers who voted in the ballot supported the proposal that the Union be recognised by the Employer for the purposes of collective bargaining within the bargaining unit.

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

## **Panel**

Professor Kenny Miller, Chairman of the Panel

Ms Virginia Branney

Mr David Bower

**24 January 2018**