

THE LABOUR COURT
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SEO/16/1

APPLICATION TO THE LABOUR COURT FOR A SECTORAL EMPLOYMENT ORDER TO APPLY TO COMMERCIAL ARCHAEOLOGISTS

Division:

Chairman: Mr. Haugh

Employer Member: Ms. Doyle

Worker Member: Ms. O'Donnell

BACKGROUND

This matter came before the Court by way of an application by Unite the Union under Chapter 3 of Part 2 of the Industrial Relations (Amendment) Act 2015 (“the 2015 Act”). The Union requested the Court to examine the terms and conditions of workers employed in - what it submits is “a defined economic sector” for the purposes of the 2015 Act. The Court, as it is required to do, published its intention to undertake an examination of the Union’s request and invited applications from all interested persons. Written submissions were received from a diverse range of parties including IBEC, the Institute of Archaeologists of Ireland, a number of third-level educational institutions, and from individual archaeological consultancy firms. A hearing was held on 7 September 2016 at which those parties who had made written submissions and who had declared themselves to be “interested and desiring to be heard” attended. Representatives from Unite, IBEC, the Institute of Archaeologists of Ireland, University College Cork, and Courtney Deery Heritage Consultancy attended and made oral contributions at that hearing. Thereafter, the Court received further written submissions from the Union and from IBEC.

CONDITIONS PRECEDENT TO AN EXAMINATION BY THE COURT UNDER CHAPTER 3, PART 2 OF THE ACT

Section 15 of the Act specifies a number of conditions precedent which the Court must satisfy itself have been met in respect of any request made to it under section 14 to examine the terms and conditions of workers in an economic sector with a view to considering whether or not it should make a recommendation to the Minister to make a sectoral employment order in respect of workers in that economic sector.

Section 15 states:

15. (1) Where the Court receives a request under section 14 it shall not undertake an examination in accordance with this section unless it is satisfied that—
(a) following consideration of any documentation submitted under subsection (2) of section 14—

(i) the trade union of workers is substantially representative of the workers of the particular class, type or group in the economic sector in respect of which the request is expressed to apply, and in satisfying itself in that regard, the Court shall take into consideration the number of workers in that class, type or group represented by the trade union of workers, and
(ii) where the request is made by a trade union or organisation of employers or jointly with a trade union or organisation of employers, the trade union or organisation concerned is substantially representative of the employers in the particular class, type or group in the economic sector in respect of which the request is expressed to apply, and in satisfying itself in that regard, the Court shall take into consideration the number of workers employed in the particular class, type or group in the economic sector concerned by employers represented by the trade union or organisation of employers concerned,

(b) the request is expressed to apply to all workers of the particular class, type or group and their employers in the economic sector in respect of which the request is expressed to apply,

(c) it is a normal and desirable practice, or that it is expedient, to have separate terms and conditions relating to remuneration, sick pay schemes or pension schemes in respect of workers of the particular class, type or group in the economic sector in respect of which the request is expressed to apply, and

(d) any recommendation is likely to promote harmonious relations between workers of the particular class, type or group and their employers in the economic sector in respect of which the request is expressed to apply.

DECISION

Having carefully considered both the submissions it received, and the verbal presentations of parties who attended the hearing on 7 September 2016, the Court is not satisfied that conditions precedent specified in section 15 have been met by the Union on this occasion. The Court, therefore, does not accede to the Union's request to make a recommendation to the Minister to make a sectoral employment order in respect of commercial archaeologists on foot of the within application.

Signed on behalf of the Labour Court

Alan Haugh

Deputy Chairman

13 December 16

JD

NOTE

Enquiries concerning this recommendation should be in writing and addressed to John Deegan, Court Secretary.