

THE LABOUR COURT
LANSDOWNE HOUSE
LANSDOWNE ROAD
BALLSBRIDGE
DUBLIN 4
D04 A3A8



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CD/17/324

RECOMMENDATION NO. LCR21654

INDUSTRIAL RELATIONS ACTS 1946 TO 2015
SECTION 20(1), INDUSTRIAL RELATIONS ACT, 1969

PARTIES :

TESCO IRELAND

- AND -

MANDATE TRADE UNION
SERVICES INDUSTRIAL PROFESSIONAL TECHNICAL UNION

DIVISION :

Chairman : Mr Foley
Employer Member : Mr Marie
Worker Member : Mr Hall

SUBJECT:

1. Group claim on pay and associated matters on behalf of 9,000 members of the Trade Unions.

BACKGROUND:

2. This case concerns a pay claim and associated matters by the Trade Unions on behalf of 9,000 members.

On the 23 October 2017, the Unions referred this dispute to the Labour Court in accordance with Section 20(1) of the Industrial Relations Act, 1969.

A Labour Court hearing took place on the 29 January 2018.

RECOMMENDATION :

The Court has given very careful consideration to the written and oral submissions of the parties.

The matter before the Court is a claim as regards pay and associated matters on behalf of 9,000 members of the Trade Unions. The parties before the Court are parties to a long standing collective agreement which, the Court understands, commits both parties to engagement and negotiation on matters relating to the terms and conditions of employment of the persons who are members of the Trade Unions and in the employ of the Employer.

The Employer has confirmed in writing to the Court that it has always respected the collective bargaining process but that recent events have resulted in the Employer 'directly engaging with our colleagues on matters of pay and employment'. That assertion by the Employer is consistent with the position of the Trade Unions that the Employer has not engaged in collective bargaining in respect of the matters before the Court.

This Court cannot support the proposition that parties who have in place a collective agreement committing both parties to engagement and negotiation should be able to set that agreement aside, particularly in circumstances where the collective agreement is acknowledged to the Court by both parties to be still in existence. The Court has always supported the contention that collective agreements remain in place until such agreements are brought to an end by agreement or replaced by fresh agreements. In the current matter no suggestion is made by either party that their collective agreement is anything other than in place as the framework for the conduct of the relationship between the parties.

The Court is being asked to make specific recommendations by the Trade Unions and is being invited to make no recommendation by the Employer. Notwithstanding the specific nature of the matters before the Court the parties have both considered it appropriate to apprise the Court comprehensively of the recent history of their relationship and what they see as inappropriate conduct by each other. The Court concludes that the fact of such claims as are before the Court being referred under Section 20(1) of the 1969 Act is a reflection on the poor state of the parties' collective relationship of extremely long standing.

In all of the circumstances therefore the Court does not consider that either party would be well served by an attempt by the Court to address specific claims of this nature covering such a large body of workers where no collective bargaining on these matters has taken place and against the background of what both parties appear to believe is a malfunctioning collective relationship.

In those circumstances the Court recommends that the parties acknowledge that the matters before the Court are a manifestation of a deeper issue. The Court further recommends that, in isolation from the current claims or any other matter of recent history, the parties should engage to review the functioning of their relationship in a forward looking frame. The Court, in support of this recommendation, is prepared to nominate an individual of national standing and of long experience to facilitate a

constructive dialogue at senior level between the Employer and the Trade Unions. The Court believes, given the significance of the matter, that such a facilitated dialogue could, where appropriate, benefit from the support of the ICTU and IBEC. The Court recommends that engagement on this matter should take place over a 12 week timeframe and that the parties should report back to the Court at the conclusion of that period as to progress in relation to the matter.

In relation to the specific matters before it, the Court recommends that the parties should, at the appropriate time and if considered necessary, process these claims through their normal agreed procedures.

Signed on behalf of the Labour Court

Kevin Foley

Chairman

CR
12 February, 2018

NOTE

Enquiries concerning this Recommendation should be in writing and addressed to Ciaran Roche, Court Secretary.