

CD/13/13

RECOMMENDATION NO. LCR20544 (CCC-126597-12)

INDUSTRIAL RELATIONS ACTS, 1946 TO 2012 SECTION 26(1), INDUSTRIAL RELATIONS ACT, 1990

PARTIES:

DUBLIN BUS

- AND -

NBRU

SERVICES INDUSTRIAL PROFESSIONAL TECHNICAL UNION

TRANSPORT SALARIED STAFFS' ASSOCIATION

TECHNICAL, ENGINEERING AND ELECTRICAL UNION

UNITE

DIVISION:

Chairman: Mr Duffy

Employer Member: Ms Cryan

Worker Member: Ms Tanham

SUBJECT:

1. Cost Reduction Plan - Incorporating a number of issues.

BACKGROUND:

2. The case before the Court concerns a dispute between the Company and the Union Group consisting of SIPTU, NBRU, TSSA, Unite and TEEU in relation to the implementation of a cost reduction plan for employees in Dublin Bus. The dispute was referred to the Labour Court on the 4th of January 2013 in accordance with Section 26(1) of the Industrial Relations Act 1990. A Labour Court hearing took place on the 15th of March 2013 and a subsequent hearing took place on the 15th of April 2013. The following is the Recommendation of the Court.

RECOMMENDATION :

This dispute came before the Court following extensive negotiations at local level and in conciliation at the LRC on a range of proposals by the Company intended to address its deteriorating financial position. This deterioration has arisen from the combined effect of reductions in subventions, increased operating costs and a decline in revenue in consequence of a reduction in passenger journeys undertaken. At the

end of 2012 the Company had an accumulated deficit of €52.2m.

The Company is seeking to achieve significant savings in its cost base of the order of €11.7m annually of which some €7.7m is to come from direct payroll costs and some €4m from efficiency and productivity savings which will impact on working arrangements affecting staff.

The financial data upon which the Company's proposals are based has been independently examined and verified by two independent consultants nominated by the Unions. The report of these consultants has been furnished to the Court.

There is no proposal to reduce core or basic pay but it is acknowledged that many of the proposals, particularly those involving reductions in direct payroll costs, will impact significantly on the earnings of employees. However, the Company believes that there are no viable alternatives which could address the financial difficulties with which it is faced.

The Unions pointed out that the measures, if implemented, would impact to an unacceptable extent on the earnings of their members, most of whom are on low pay.

They also pointed out that the terms and conditions which the Company are seeking to change are provided for in collective agreements and are incorporated in the individual employment contracts of their members. They say that their members cooperated with major restructuring of the Company in 2009 on the assurance that this would secure the business into the future. In consequence they are not now prepared accept further reductions in earnings on the same assurances.

Conclusions of the Court

The Court has considered the submissions of the parties and has carefully evaluated all of the financial and other information with which it was provided, including the reports from the independent assessors appointed by the Unions.

The terms and conditions of employment in issue are of long standing and are not out of line with those applying in similar employments, including employments within the CIE Group of Companies. In these circumstances the Court has consistently pointed out that it will only recommend retrenchment in established conditions of employment where, on independently verified financial evidence, it is plainly and unambiguously necessary to do so in order to protect employment. The Court is satisfied that this is such a case although the extent of the changes proposed cannot go beyond what those affected could reasonably be expected to bear. Based on that consideration the Court does not believe that it would be either reasonable or practical to recommend concession of the full extent of what the Company have proposed.

Furthermore, the Court believes that if the recommendations that follow are accepted they should not

result in a permanent alteration of existing terms and conditions of employment. Consequently, this Recommendation is made on the basis that its terms, if accepted, should operate as a derogation from the provisions of existing agreement until such time as the Company returns to a reasonable and sustainable level of profitability.

The Court is of the view that this Recommendation should remain in place for a period of 19 months following acceptance by all parties.

On that basis the Court recommends as follows: -

Part 1

Drivers

Rest day and overtime working

The Court recommends that:-

- (1) Rest day and overtime on Sunday to be paid at double time
- (2) Rest day Monday to Saturday to be paid at time and one quarter
- (3) Overtime working on Monday to Saturday to be paid at time and one quarter for the first two hours in a given day and at time and one half thereafter.
- (4) Public Holiday normal day to be paid at time and one quarter plus statutory entitlement
- (5) Public Holiday rest day and overtime to be paid at time and one quarter plus statutory entitlement

Incentive Schemes

The Court recommends that: -

- (1) The Company's proposal on a revised attendance bonus should be accepted
- (2) The safe driving bonus should be discontinued and replaced with a new arrangement developed in the context of the Company's proposal on 'Driver Feedback Technology' to achieve fuel savings. The Court recommends that the savings achieved should be shared on a 50/50 basis by way of a revised driver performance incentive scheme to be put in place in a time frame of not more than three months of acceptance of this recommendation.

Income continuance Scheme

The Court recommends that the contributions to the scheme remain unchanged

Self-certified illness

The Court recommends that: -

- (1) A total of 4 days self - certified sick leave should be permitted in a calendar year
- (2) No more than 2 such days should be permitted in any 6 month period
- (3) With the exception of the above, the current terms of the scheme, including the mode of calculating payment, should continue to apply.

Traveling Time

The Company's proposals on traveling time should be referred back for further discussions with a view to reaching agreement within a time frame of not more than three months.

Shift Pay

The Court does not recommend any change in the current arrangements for shift premium.

Late Breaks

The Court recommends that the proposal on late breaks should be accepted in the terms set out in the Company's submission to the Court.

New Driver Rates

The Court recommends that the proposal on rates for new drivers should be accepted in the terms set out in the Company's submission to the Court.

First Use Bus Check

The Company's proposals on 'First use Bus Check' should be referred back for further discussions with a view to reaching agreement within a time frame of not more than three months.

Schedules

The Court recommends that Company's proposals on 'Schedules' should be implemented upon acceptance of this recommendation.

Revenue Protection

The Court recommends that the Company's proposal on 'Revenue Protection' be accepted.

Part 2

Clerical Grade

Rest day and Overtime Working

The Court recommends that the Company's proposal on rest day and overtime working be accepted in the terms set out in its submission to the Court except that in the case of overtime working on Monday

to Saturday the premium should be time and one quarter for the first two hours in a given day and time and one half thereafter.

Welfare Scheme

Issues relating to the Company's welfare scheme should be addressed in the context of discussions currently taking place at the level of the CIE Group.

Self-Certified Illness

The Court recommends that: -

- (1) A total of 4 days self - certified sick leave should be permitted in a calendar year
- (2) No more than 2 such days should be permitted in any 6 month period
- (3) With the exception of the above, the current terms of the scheme, including the mode of calculating payment, should continue to apply.

Working Week

The Court recommends that the Company's proposal on a revised working week be accepted

Pension Scheme Rule 29b

All issues relating to 'Pension Scheme Rule 29b' should be addressed in the context of discussions currently taking place at the level of the CIE Group.

Staffing Structure

The Company's proposals on 'Staffing Structure' should be referred back for further discussions with a view to reaching agreement within a time frame of not more than three months.

Part 3

Engineering Supervisor Grade

Rest day and Overtime Working

The Court recommends that.-

- (1) Rest day and overtime on Sunday to be paid at double time
- (2) Rest day Monday to Saturday to be paid at time and a quarter
- (3) Overtime working on Monday to Saturday to be paid at time and one quarter for the first two hours in a given day and at time and one half thereafter.

(4) Public Holiday normal day to be paid at time and a quarter plus statutory entitlement

(5) Public Holiday rest day and overtime to be paid at time and a quarter plus statutory entitlement.

Welfare Scheme

Issues relating to the Company's welfare scheme should be addressed in the context of discussions currently taking place at the level of the CIE Group.

Self -certified illness

The Court recommends that: -

(1) A total of 4 days self - certified sick leave should be permitted in a calendar year

(2) No more than 2 such days should be permitted in any 6 month period

(3) With the exception of the above, the current terms of the scheme, including the mode of calculating payment, should continue to apply.

Annual leave

The Court recommends that the Company proposal should be accepted

Incentive Scheme

The Court recommends that the Company's proposal on the incentive scheme applicable to this grade be accepted.

Pension Scheme Rule 29b

All issues relating to 'Pension Scheme Rule 29b' should be addressed in the context of discussions currently taking place at the level of the CIE Group.

Part 4

Craftworker Grade

Rest day and Overtime Working

The Court recommends that:-

(1) Rest day and overtime on Sunday to be paid at double time

(2) Rest day Monday to Saturday to be paid at time and a quarter

(3) Overtime working on Monday to Saturday to be paid at time and one quarter for the first two hours in a given day and at time and one half thereafter.

(4) Public Holiday normal day to be paid at time and a quarter plus statutory entitlement.

(5) Public Holiday rest day and overtime to be paid at time and a quarter plus statutory entitlement

Welfare Scheme

Issues relating to the Company's welfare scheme should be addressed in the context of discussions currently taking place at the level of the CIE Group.

Self-certified illness

The Court recommends that: -

(1) A total of 4 days self-certified sick leave should be permitted in a calendar year

(2) No more than 2 such days should be permitted in any 6 month period

(3) With the exception of the above, the current terms of the scheme, including the mode of calculating payment, should continue to apply.

Annual leave

The Court recommends that the Company's proposal should be accepted.

Incentive Scheme

The Court recommends that the Company's proposal on the incentive scheme applicable to this grade be accepted.

Pension Scheme Rule 29b

All issues relating to 'Pension Scheme Rule 29b' should be addressed in the context of discussions currently taking place at the level of the CIE Group.

New Entrants Rate of Pay

The Court recommends that the Company's proposal on rates for new entrants be accepted

Part 5

Traffic Supervisor Grade

Rest day and Overtime Working

The Court recommends that:-

(1) Rest day and overtime on Sunday to be paid at double time

(2) Rest day Monday to Saturday to be paid at time and a quarter

(3) Overtime working on Monday to Saturday to be paid at time and one quarter for the first two hours in a given day and at time and one half thereafter.

(4) Public Holiday normal day to be paid at time and a quarter plus statutory entitlement

(5) Public Holiday rest day and overtime to be paid at time and a quarter plus statutory entitlement.

Incentive Scheme

The Court recommends that the Company's proposal on the incentive scheme applicable to this grade be accepted.

Income continuance Scheme

The Court recommends that the contributions to the scheme remain unchanged.

Welfare Scheme

Issues relating to the Company's welfare scheme should be addressed in the context of discussions currently taking place at the level of the CIE Group.

Self-certified illness

The Court recommends that: -

(1) A total of 4 days self-certified sick leave should be permitted in a calendar year

(2) No more than 2 such days should be permitted in any 6 month period

(3) With the exception of the above, the current terms of the scheme, including the mode of calculating payment, should continue to apply.

Pension Scheme Rule 29b

All issues relating to 'Pension Scheme Rule 29b' should be addressed in the context of discussions currently taking place at the level of the CIE Group.

Restructuring

The Company's proposals on 'Restructuring' should be referred back for further discussions with a view to reaching agreement within a time frame of not more than three months.

Revenue Protection

The Court recommends that the Company's proposal on 'Revenue Protection' be accepted.

Part 6

Engineering Operative Grade

Rest day and Overtime Working

The Court recommends that.-

- (1) Rest day and overtime on Sunday to be paid at double time
- (2) Rest day Monday to Saturday to be paid at time and a quarter
- (3) Overtime working on Monday to Saturday to be paid at time and one quarter for the first two hours in a given day and at time and one half thereafter.
- (4) Public Holiday normal day to be paid at time and a quarter plus statutory.
- (5) Public Holiday rest day and overtime to be paid at time and a quarter plus statutory

Welfare Scheme

Issues relating to the Company's welfare scheme should be addressed in the context of discussions currently taking place at the level of the CIE Group.

Self-certified illness

The Court recommends that: -

- (1) A total of 4 days self-certified sick leave should be permitted in a calendar year
- (2) No more than 2 such days should be permitted in any 6 month period
- (3) With the exception of the above, the current terms of the scheme, including the mode of calculating payment, should continue to apply.

Annual Leave

The Court recommends that the Company's proposal be accepted.

Incentive Scheme

The Court recommends that the Company's proposal on the incentive scheme applicable to this grade be accepted.

Pension Scheme Rule 29b

All issues relating to 'Pension Scheme Rule 29b' should be addressed in the context of discussions currently taking place at the level of the CIE Group.

Staffing Structure

The Company's proposals on 'Staffing Structure' should be referred back for further discussions with a view to reaching agreement within a time frame of not more than three months.

New Entrants Rates of Pay

The Court recommends that the Company's proposal on rates for new entrants be accepted

Signed on behalf of the Labour Court

Kevin Duffy

17th June 2013

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Chairman