

# EMPLOYMENT RELATIONS TRIBUNAL

## ORDER

ERT/RN 32/2013

Before:

Shameer Janhangeer	-	Vice-President
Ramprakash Ramkissen	-	Member
Rabin Gungoo	-	Member
Georges Karl Louis	-	Member

In the matter of:-

**Organisation of Hotel, Private Club & Catering Workers Unity**

**Applicant**

and

**Black Rock Co. Ltd**

**Respondent**

The Organisation of Hotel, Private Club & Catering Workers Unity (the "*Applicant Union*") has applied to the *Tribunal* for an order for recognition of a trade union as a bargaining agent in relation to workers in a bargaining unit employed by Black Rock Co. Ltd (the "*Employer*"). The bargaining unit applied for is in respect of the grades of skipper; skipper in charge; dive master; office clerk; and diving instructor. The *Applicant Union* has annexed 18 confirmation union membership forms in support of its application, to which the *Employer* is objecting.

Mr Atma Shanto, Union Negotiator, deposed to substantiate the application before the *Tribunal*. He produced a letter dated 20 March 2013 addressed to the *Employer* together with a postal receipt (Documents A & A<sub>1</sub>). He also produced a letter from the *Employer* dated 9<sup>th</sup> April 2013 (Document B) stating why they are not recognizing the union, following which the union made the present application to the *Tribunal* with 18 confirmation forms representing more than 30 % of the bargaining unit. He moved for an order of recognition on behalf of the *Applicant Union* for the bargaining unit located at Movenpick Hotel. Mr A. Shanto also maintained that the 18 members as per the forms are still members of the trade union and still members of the staff of the *Employer*.

Mr Francois Besson, Company Director, deposed on behalf of the *Employer*. He stated that as the union cannot divulge the signatures, he cannot accept the 18 signatures as being authentic. Management has put a work council in place at the company and during the frequent work councils held with staff, they have made it abundantly clear that they do not wish to be unionised. That is why they doubt the authenticity of the signatures. The representative of the company also produced a list of the employees at the company as at end of May together with a cover note (Documents C<sub>1</sub> & C). Mr F. Besson also stated that there has been no change in the employment of the company since the application was made.

The *Applicant Union* contends that it has more than 30 per cent support in the bargaining unit it has applied to be recognized for by the *Employer*. The 18 confirmation membership forms the union has submitted in support of its application show that it has members in the categories of skipper, skipper-in-charge and office clerk. It may be noted that although the aforesaid forms are dated November and December 2012, the union representative has maintained that the 18 members are still members of the *Applicant Union*.

From the list of workers produced, it can be seen that there are 16 trade union members out of a total of 25 workers. In the categories of the bargaining unit applied for there are 20 workers, 14 of which are members of the trade union. This does show that the *Applicant Union* has the support of more than 50 per cent of the workers in the bargaining unit.

The *Tribunal* has noted that the *Employer* has stated that their staff has made it abundantly clear, in work councils held, that they do not wish to be unionised and that is why they doubt the membership of the *Applicant Union*.

With regard to the contention of the *Employer*, in a spirit of promotion of good employment relations, it may be noted from the *Code of Practice* in the *Fourth Schedule* of the *Act* that a *Joint Consultative Committee* has been provided for in an enterprise which includes the participation of trade union representatives. This is clear from *paragraphs 78 and 79* of the *Code of Practice*:

78. *Management shall establish mechanisms, such as a Joint Consultative Committee, for effective consultation with workers and their trade union representatives.*
79. *A Joint Consultative Committee shall be established through agreement between employers, workers and their recognised trade unions, if any, and shall aim at improving –*

- (a) *quality of working life;*
- (b) *employment relations; and*
- (c) *productivity and efficiency.*

The *Tribunal* is therefore satisfied that the *Applicant Union* has produced evidence that it is representative in accordance with *section 37* of the *Act*. The *Tribunal* therefore issues an order that the trade union be granted recognition to undertake collective bargaining with Black Rock Co. Ltd on behalf of the bargaining unit applied for.

The *Tribunal* also declares that the Organisation of Hotel, Private Club & Catering Workers Unity shall be recognised as a sole bargaining agent by Black Rock Co. Ltd for the bargaining unit made up of the grades of skipper; skipper in charge; dive master; office clerk; and diving instructor. The recognised trade union and the *Employer* are now therefore required to meet at specified intervals or at such time and on such occasions, as the circumstances may reasonably require, for the purposes of collective bargaining.

**(Sd) Shameer Janhangeer**  
**(Vice-President)**

**(Sd) Ramprakash Ramkissen**  
**(Member)**

**(Sd) Rabin Gungoo**  
**(Member)**

**(Sd) Georges Karl Louis**  
**(Member)**

**Date: 28<sup>th</sup> June 2013**

