

EMPLOYMENT RELATIONS TRIBUNAL

ORDER

ERT/ RN 77/17

Before

Indiren Sivaramen	Vice-President
Vijay Kumar Mohit	Member
Karen K. Veerapen	Member
Yves Christian Fanchette	Member

In the matter of:-

Port Louis Maritime Employees Association (Applicant)

And

Freeport Operations (Mauritius) Limited (Respondent)

in presence of

(1) Private Enterprises Employees Union

(2) The Maritime Transport and Port Employees Union

(Co-Respondents)

The present matter is an application by the Port Louis Maritime Employees Association under section 38 (1) of the Employment Relations Act (the "Act") for an order directing the Respondent to recognise the Applicant as the sole bargaining agent in a bargaining unit in relation to employees of the Respondent. The Applicant was represented by a Negotiator whereas the Respondent was assisted by Counsel. Co-Respondents No 1 and 2 were represented by an Accounting Officer and a Negotiator respectively.

The application was resisted by the Respondent on the following grounds:

- (1) the Respondent already have two recognised trade unions namely Co-Respondent No 1 and Co-Respondent No 2; and

(2) the Applicant does not have the support of 50% of employees for sole recognition.

The Co-Respondents had no objection for every trade union to be recognised but objected to Applicant being granted sole recognition. Co-Respondents were already recognised trade unions at the Respondent and the evidence suggests that they were acting as a Joint Negotiating Panel (JNP). Applicant did not want to join the JNP and insisted to be granted sole recognition. The representative of Applicant adduced evidence and produced a set of documents in relation to 59 employees in the said bargaining unit who would be members of Applicant. The Tribunal proceeded for a ballot exercise in the circumstances and as suggested by the parties. The employees were asked which trade union or group of trade unions they wished to be their sole bargaining agent. It was also agreed that Co-Respondents No 1 and 2 would be referred to as the Joint Negotiating Panel consisting of Co-Respondents No 1 and 2.

The secret ballot exercise was organized and supervised by the Tribunal at the seat of the Respondent on Thursday 24 August 2017. Out of a total number of 90 employees in the relevant bargaining unit as agreed by all parties, 62 employees participated in the ballot exercise. 58 employees voted for the Applicant as their sole bargaining agent at the Respondent whilst 3 employees voted for the Joint Negotiating Panel (Private Enterprises Employees Union and The Maritime Transport and Port Employees Union) and one bulletin was declared void. The Applicant thus secured the support of 64% of the workers in the bargaining unit, that is, a support of more than 50% of the workers in the said bargaining unit.

The Tribunal thus orders that the Respondent is to recognise the Applicant as the sole bargaining agent in the bargaining unit consisting of manual employees and administrative staff, excluding management under employment at the Respondent. The Respondent and the Applicant are to meet at such time and on such occasions as the circumstances may reasonably require for the purposes of collective bargaining.

(SD) Indiren Sivaramen
Vice-President

(SD) Vijay Kumar Mohit
Member

(SD) Karen K. Veerapen
Member

(SD) Yves Christian Fanchette
Member

25 August 2017