

EMPLOYMENT RELATIONS TRIBUNAL

ORDER

ERT/ RN 03/19

Before

Indiren Sivaramen	Vice-President
Marie Désirée Lily Lactive	Member
Bharuth Kumar Ramdany	Member
Yves Christian Fanchette	Member

In the matter of:-

Private Sector Employees Union (Applicant)

And

Froid des Mascareignes Ltd (Respondent)

i.p.o Port-Louis Maritime Employees Association (Co-Respondent)

The present matter is an application made by the Applicant union under section 38 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 consisting of the categories of manual employees and operative staff under employment at the Respondent. The Applicant sent a letter dated 4 October 2018 to the Respondent (copy annexed as Annexure A to the application) and the Respondent did not reply to the said letter within the statutory delay provided under the Act. It is unchallenged that there was another trade union, that is, the Co-Respondent, which was recognised as sole bargaining agent at the Respondent. The Co-Respondent was thus joined in as a party in the present matter. The Applicant was represented by Mr Chavrimootoo, Negotiator, the Co-Respondent union was represented by Mr Shookhye whereas the Respondent was assisted by Counsel.

Respondent objected to the application and Counsel submitted to the Tribunal that in the light of section 37(3) of the Act, it will be up to the Tribunal to decide whether to make an order or determination and that if the Tribunal would be minded to make any order or determination, then it should be pursuant to section 38 of the Act which requires a secret ballot.

All parties were agreeable to a ballot exercise being carried out. Applicant also produced copies of 75 “*Admission Form Membership Application*” forms. The Tribunal found that this was a fit and proper case for the Tribunal to organise a secret ballot in the relevant bargaining unit. The Tribunal in the circumstances thus proceeded for a secret ballot exercise.

The secret ballot exercise was organised and supervised by the Tribunal at the seat of the Respondent on Friday 8 March 2019. The list of employees in the relevant bargaining unit was agreed by all parties. There was a total number of 110 employees in the relevant bargaining unit as agreed by all parties and 94 of the said employees participated in the ballot exercise. 91 employees were in favour of the recognition of Applicant as their sole bargaining agent at the Respondent whilst no single employee was in favour of the recognition of the Co-Respondent as their sole bargaining agent at the Respondent. There were three void ballot papers. The Applicant thus secured the support of 82.7 per cent of the workers in the bargaining unit, that is, a support of more than 50 per cent of the workers in the said bargaining unit.

The Tribunal thus orders that henceforth the Respondent is to recognise the Applicant as the sole bargaining agent, that is, with sole bargaining rights in the bargaining unit consisting of manual workers and operative staff employed by 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 Marie Désirée Lily Lactive
Member

SD Bharuth Kumar Ramdany
Member

SD Yves Christian Fanchette
Member

14 March 2019