

THE LABOUR COURT
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CD/15/403

RECOMMENDATION NO. LCR21139

INDUSTRIAL RELATIONS ACTS 1946 TO 2015
SECTION 26(1), INDUSTRIAL RELATIONS ACT, 1990

PARTIES :

TESCO IRELAND
(REPRESENTED BY IRISH BUSINESS AND EMPLOYERS' CONFEDERATION)

- AND -

MANDATE
SERVICES INDUSTRIAL PROFESSIONAL TECHNICAL UNION

DIVISION :

Chairman : Ms Jenkinson
Employer Member : Ms Cryan
Worker Member : Mr Shanahan

SUBJECT:

1. 1. Non payment of share bonus & 2. Pay increase.

BACKGROUND:

2. The case before the Court concerns a dispute between Tesco Ireland and the Unions in relation to the non-payment of a share bonus and a pay increase on all rates/grades. The dispute relates specifically to the Unions' claim for a 3% pay increase for twelve months for all staff across the Company. The Unions are further seeking the payment of a share bonus for all staff for 2015. The Employer rejects the Unions' claims, arguing that it is

not in a financial position to concede a pay claim while it is currently experiencing a continuing decline in market share. In terms of the share bonus payment, the Employer maintains that it had declared a zero bonus payment for 2015, with the exception of those staff who are guaranteed a bonus payment. The dispute could not be resolved at local level and was the subject of a Conciliation Conference under the auspices of the Workplace Relations Commission. As agreement was not reached, the dispute was referred to the Labour Court on the 18th December 2015, in accordance with Section 26(1) of the Industrial Relations Act, 1990.

A Labour Court hearing took place on the 10th February, 2016.

UNION'S ARGUMENTS:

3.
 1. The Unions contend that the Employer has not effectively demonstrated its financial incapability to concede the pay claim. The Unions therefore maintain that the Employer should apply the terms as sought.
 2. The Unions are of the view that the Share Bonus Payment was negotiated as part of an agreement and is not discretionary on the Employer. It should be paid to all staff accordingly for 2015.

EMPLOYER'S ARGUMENTS:

4.
 1. The Company continues to experience a year on year decrease in its sales position therefore an increase in rates of pay is not feasible at this time.
 2. The current sales situation of the Company clearly demonstrates its inability to award a bonus payment to all staff across the Company. With the exception of certain employees who had a guaranteed payment, the Employer asserts that it is not in a financial position to award a bonus to all staff.

RECOMMENDATION :

The matter before the Court concerns the Unions' claim for a 3% increase in pay from 1st April 2015 for twelve months. It also involves a dispute concerning the non-awarding of a share bonus payment under the Tesco Ireland Share Bonus Scheme which is normally paid out in May of each year. In 2015, the Company stated that due to the company's overall performance the Board of Management decided that no payment would be made in May 2015, save for those employees who are guaranteed a share bonus payment.

In response to the Unions' claims the Company offered a once off lump sum payment to those employees who were not eligible to receive the guaranteed share bonus payment, .

This offer was rejected by the Unions.

Having considered the submissions made by both sides the Court recommends that rates of pay of all employees covered by the claims should be increased by 2% with effect from 1st April 2015 for twelve months and secondly, a payment of 1 ½% of basic annual earnings should be made under the Tesco Ireland Share Bonus Scheme to those who have not received the guaranteed share bonus payment.

The Court so Recommends.

Signed on behalf of the Labour Court

Caroline Jenkinson

Deputy Chairman

CO'R

19th February, 2016

NOTE

Enquiries concerning this Recommendation should be in writing and addressed to Clodagh O'Reilly, Court Secretary.