

D/02/2013

**DECISION OF THE CERTIFICATION OFFICER ON AN APPLICATION MADE
UNDER ARTICLE 90A OF THE TRADE UNION AND LABOUR RELATIONS
(NORTHERN IRELAND) ORDER 1995**

Mr Stephen Mulholland

v

**The Northern Ireland Public Service Alliance
(NIPSA)**

Date of Decision:

18 April 2013

DECISION

Upon the direction of the Certification Officer of Northern Ireland under Article 70ZA of The Industrial Relations (Northern Ireland) Order 1992, as amended by the Employment Relations (Northern Ireland) Order 2004, the applicant's application is hereby struck out for excessive delay in proceeding with it.

REASONS

1. Mr. Mulholland lodged a Notice of Complaint against The Northern Ireland Public Service Alliance (NIPSA) under Article 90A of the Trade Union and Labour Relations (Northern Ireland) Order 1995 (The 1995 Order) on 3rd September 2012
2. According to the Notice the applicant is a member and a Branch Secretary of NIPSA Branch 91. In his statement attached to the application the applicant alleged certain rule breaches against the Union pertaining to the alleged irregular and non-compliant convening of committee meetings of Branch 91 of NIPSA.

3. By letter of 12th September, my office confirmed receipt of the applicant's Notice of Complaint.
4. By letter of 25th October 2012 to the applicant, my office requested further and specific particulars of the complaint and sought confirmation from the applicant relating to the specific rule breaches alleged and further supporting information in respect of each alleged rule breach. The applicant was provided with a guidance leaflet on how to present his complaint and he was provided with references to online resources on the website of the Certification Officer to assist him, if required.
5. By that same letter of 25th October the applicant was advised of my direction to furnish the required information by 7th November 2012
6. The applicant did not comply with this direction and by 7th November my office noted that there had been no contact from the applicant. The records show that John Bennett from my office made phone calls to the applicant on 9th November and 15th November requesting contact. The records from my office also record that there was no response from the applicant to these calls.
7. Upon the assumption that the applicant may still intend to proceed with the claim. I directed that the applicant be allowed an extension of time to comply with the requests of the letter of 25th October until 7th December 2012. By letter of 29th November 2012, the applicant was advised of this deadline by my office. In that letter he was also expressly invited to contact the Assistant Certification Officer if he required any assistance.
8. In the absence of any contact whatsoever from the applicant, my office wrote to the applicant on 4th January 2013 seeking either his response or a confirmation of his withdrawal of the complaint.
9. In the absence of any contact whatsoever from the applicant, my office wrote to him one final time on 28th February notifying him of the provisions of the 1992 Order in respect of the powers and duties of the Certification Officer in respect of the striking out of applications and urging him to confirm his position.
10. I issued a Notice to the applicant under Article 70ZA (4), notifying him of my intention to make an Order striking out his application and giving him a final opportunity to show cause as to why a striking out order should not be made. I fixed the final deadline for him to make any such representation to me as 18th April 2012.
11. At the date of this Order there has not been any contact from the applicant.

The Relevant Statutory Provisions

The provisions of the 1992 Order as amended by the 2004 Order which are relevant for the purposes of this application are as follows:-

Article 70ZA Striking out

- (2) The Certification Officer may order an application or complaint made to her to be struck out for excessive delay in proceeding with it.
- (3) An order under this section may be made on the Certification Officer's own Initiative

Conclusions

On the above facts I find that there has been excessive delay on the part of Mr Mulholland in proceeding with his complaint and that his failure to respond to correspondence from my office so as to identify his cause of action and the grounds relied upon and his failure to comply with the time limits imposed by my directions have amounted to excessive delay in proceeding with the application.

For the above reasons, I strike out this complaint pursuant to Article 70ZA (2) of the 1992 Order, as amended.

Sarah Havlin
Certification Officer for Northern Ireland