

**D/03/2013**

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

**Mr John Patterson**

**v**

**GMB – Britain's General Union**

**Date of Decision:**

**03 October 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. Patterson lodged a Notice of Complaint against GMB under Article 90A of the Trade Union and Labour Relations (Northern Ireland) Order 1995 (The 1995 Order) on 3<sup>rd</sup> April 2013.
2. According to the Notice the applicant is a member of GMB Union. In his statement attached to the application the applicant alleged certain rule breaches against the Union pertaining to the alleged failure of the Trade Union and its representatives to fully consult with him on a disciplinary matter and relating to complaints about representation of the member by the Trade Union.

3. By letter of 11<sup>th</sup> April 2013, my office confirmed receipt of the applicant's Notice of Complaint.

4. By letter of 22<sup>nd</sup> April 2013 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. The applicant responded to the letter of 22<sup>nd</sup> April 2013 with a letter dated 30<sup>th</sup> April 2013 outlining his responses to questions put to him as to how he intends to link his complaint to the statutory remit of the Certification Officer.

6. I wrote to the applicant on 20 May 2013 stating that the rule breach identified may not fall within my jurisdiction and asking him to consider his complaint in the context of the specific grounds outlined in Article 90A of The 1995 Order. I stated to the applicant that I could not consider a complaint relating solely to the quality or representation by a Trade Union. I further stated to the applicant in this letter

*"I cannot put your claim to the Union until you have both linked your complaint to one of the statutory grounds, as previously outlined in my letter of 22<sup>nd</sup> April 2013, and provided an explicit statement outlining the actions of the Union that have allegedly breached the rule or rules ..... You must identify both the precise rule or rules that have been allegedly breached and explain exactly how the behaviour, action or lack of action on the part of the Union has breached the provisions of that rule".*

7. I asked the applicant to let me hear from him further addressing this issue. I can confirm that neither I nor my office staff heard anything further from the applicant since his correspondence of 22<sup>nd</sup> April 2013.

8. I requested that the applicant respond to the points raised in my letter of 20 May 2013 by way of a further letter of 23<sup>rd</sup> July 2013 in which I stipulated my direction that he must reply by 23<sup>rd</sup> August 2013 and warning the applicant that a failure to respond would result in a strike out of his complaint.

9. My Office did not receive any response to my letter of 23<sup>rd</sup> July and as a consequence I issued a Notice of Intention to Strike Out the applicant's complaint on 4<sup>th</sup> September 2013 which was sent to the applicant by recorded delivery mail. In that Notice I stated that the applicant was granted a final period within which he may show due cause as to why such an Order should not be made. I directed that the applicant must show any such due cause by 11<sup>th</sup> September 2013. The Notice has not been returned to my Office by the Post Office.

10. As of the date of this Order my Office has had no further 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 Patterson 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.

Dated this day of \_\_\_\_ day of \_\_\_\_\_ 2013

**Sarah Havlin**  
**Certification Officer for Northern Ireland**