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2016

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LCR21213

1986

FULL RECOMMENDATION

1987

CD/16/69

RECOMMENDATIONNO.LCR21213

1988

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

1989

1990

PARTIES : IARNROD EIREANN

1991

1992

- AND -

1993

SERVICES INDUSTRIAL PROFESSIONAL TECHNICAL UNION NBRU

1994

TECHNICAL, ENGINEERING AND ELECTRICAL UNION UNITE

1995

TRANSPORT SALARIED STAFFS' ASSOCIATION

1996

DIVISION :

1997

Chairman: Mr Duffy

1998

Employer Member: Ms Cryan

1999

Worker Member: Ms Tanham

2000

SUBJECT:

1. Compulsory medicals for employees and the introduction and funding of an Income Continuance Plan and redeployment of employees deemed medically unfit.

2001

2002

2003

2004

BACKGROUND:

2005

2. This dispute relates to compulsory medicals for employees and the introduction and funding of an Income Continuance Scheme and redeployment of employees deemed medically unfit.

2006

This 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 26 February 2016 in accordance with Section 26(1) of the Industrial Relations Act, 1990.

2007

2008

2009

A Labour Court hearing took place on the 19 April 2016.

2010

UNION'S ARGUMENTS:

2011

3. 1. With compulsory/periodical medicals for employees the Union submits that an Income Continuance Scheme to support those unfortunate enough to find themselves ill and unable to work should be introduced.

2012

2013

2. The Income Continuance Scheme should be co-funded by the company and the Unions applying the same principles which apply to the locomotive drivers scheme.

2014

2015

3. The Union are seeking the establishment of a rehabilitation process for employees who acquire a disability through illness or work injury.

2016

EMPLOYER'S ARGUMENTS:

– January

4. 1. In order to comply with EU safety regulations the company must carry out fitness for work medicals for each safety critical employee.

– February

2. The company are willing to assist the Union with the setting up of an Income Continuance Scheme however due to serious financial constraints the company cannot contribute to the scheme.

– March

– April

3. The company have consistently dealt with cases of medical unfitness for work in a fair manner on a case by case basis.

– May

RECOMMENDATION:

– June

Having considered the submissions of the parties the Court recommends as follows: -

– July

Income Continuance

– August

The Court recommends that a contributory income continuance scheme be put in place to cover the safety critical staff, associated with this claim, who may be found medically unfit to continue in their role and for whom redeployment is not possible.

– September

The following conditions should apply: -

– October

– November

- (i) The Company should contribute 30% of the cost of the scheme and members of the scheme should contribute 70% of the cost,(ii) The cost of the scheme to the company should be taken into account in the ongoing discussions on productivity currently taking place, (iii) On the completion of the productivity discussions the ratio of contributions to the scheme, as between the Company and the members of the scheme should be reviewed**

– December

2017

Redeployment

The Court notes that the provision of redeployment in cases where employees are unable to continue in their role on medical grounds is the preferred option of all concerned. That should continue to be the preferred option and every effort should continue to be made to identify suitable posts which can be reserved for those requiring redeployment on medical grounds. However, the Court does not consider it either practicable or viable to recommend that redeployment be regarded as a mandatory requirement in every case.

Signed on behalf of the Labour Court

Kevin Duffy

LS _____

22 April 2016Chairman

NOTE

Enquiries concerning this Recommendation should be addressed to Louise Shally, Court Secretary.