

# DUNNES STORES

B E T T E R V A L U E

4 February 2015

## PROPOSED INDUSTRIAL ACTION

Dear Employee,

On the 2<sup>nd</sup> of December 2014 Mandate Trade Union circulated to its members a document which incorrectly describes the Company as having rejected attempts by the union or the Labour Court to address what are described as outstanding issues. Considerable correspondence from the Company was not meaningfully addressed by the union in relation to these issues.

This circular incorrectly states that the Company has an obligation to meet the Union and, for that matter, that the Company has not complied with any of its obligations under the 1996 Agreement.

The four items identified by the Union of which you are aware and which appear to be the subject matter of a further circular entitled "Proposed Industrial Action" dated the 16<sup>th</sup> of January 2015 are as follows;

- 1 3% pay increase;
- 2 Inappropriate and excessive use of temporary contracts;
- 3 Introduction of banded hour contracts;
- 4 Right for our Union to represent Dunnes Stores Workers at Store and National level.

The mis-description is not the issue in relation to both circulars. It is the inclusion of items 1,2 and 3 above to create the impression of a dispute in order to have a dispute to force union negotiation rights.

The facts are as follows:

At a time when the retail industry is fighting for its survival in a market that is extremely competitive, Dunnes Stores has, contrary to the general industry trend, achieved two pay increases for its employees. This was done not with any involvement of the Trade Unions but as a direct consequence of the interaction between management and employees. Furthermore, at a time when its competitors are making individuals redundant and throughout the very difficult trading period of the last number of years; Dunnes Stores has maintained its employees. During this period, one supermarket group has ceased to exist resulting in job losses and another is in the middle of substantial retrenchment. When each of you joined Dunnes Stores, you did so upon the terms of the contract of employment that was offered. There is a Grievance Procedure and an open door policy and none of these issues have been raised in either procedure. In addition, for matters outside the Grievance Procedure, the management and in particular the Store Manager is at all times available to each and every one of you for the purposes of addressing any concerns you may have.

It is important to understand that to protect the Company and the jobs of the staff who work with us, management have the right to respond to competition and to roster stores opening/ closing hours to meet the shopping needs of our customers. This is done through full time and flexible contracts which are freely entered into. It is for this reason that the Company has been able to both (a) maintain existing employment without any redundancies and (b) in fact contrary to the market conditions been in a position to award pay increases.

Mandate Trade Union has sought in the correspondence and communications to you to create and generate concern and fear on the part of each and every one of you in relation to issues that do not exist and fundamentally, are not matters capable of giving rise to a dispute within the Industrial Relations legislation. It is done to achieve the only and real objective of the present campaign namely which is to force Item 4 i.e.

#### 4 Right for our Union to represent Dunnes workers at Store and National level

The present campaign has been in existence now for in excess of 15 months in circumstances where correspondence sent by the Company seeking to identify what and where are the particular items of complaint in relation to temporary contracts or banded hour contracts has been ignored. These non-meaningful responses by the Union are the basis of the inappropriate application to the Labour Court. More fundamentally it is done solely to generate a dispute that does not exist with our employees in order to seek Union negotiation rights.

Dunnes Stores, similar to many substantial companies that operate in Ireland and internationally, do not engage directly with Trade Unions. We live in a Country that has a Constitution that recognises the right of association that is to become a member of a trade union, which Dunnes Stores wholeheartedly endorses. This right is one that the Company acknowledges is every employee's right but in as much as the Constitution recognises that right; it also recognises that there is a right effectively of disassociation namely that an employer is not obliged to nor must it talk or engage directly with Trade Unions.

An attempt similar to what is now being proposed by Mandate Trade Union here was tried by IMPACT when the latter sought Union recognition for negotiation with the Company in Ryanair. This resulted in a Court case that went all the way to the Supreme Court entitled *Ryanair v The Labour Court and IALPA* [2007] 4 IR 199 in which the Supreme Court unanimously in a five Judge ruling held that there is a constitutional right on the part of a Company not, if it so wishes, to have to engage with a Trade Union.

Mandate Trade Union knows well of this decision and knows well that it cannot legally force the Company to engage with it. It cannot, therefore, create an industrial dispute or ballot to that effect. It is for this reason that it has sought to introduce items 1 to 3 set out above in an attempt to obtain support in the forthcoming ballot.

**We would ask you to consider the above and approach the position with an open mind but against the backdrop of the fact that the Company, throughout very difficult times, has maintained your jobs, increased your pay and continues to give solid and firm employment throughout a substantial portion of this country.**

The Company will not enter into direct discussions with a Trade Union and will use all of its entitlements in that regard already confirmed by the Supreme Court.

We thank you for your consideration of the above and hope that we can continue to work together as otherwise the inevitable consequence will be harm to the Company which can only but harm its employees resulting in redundancies and layoffs.

Sincerely,

Dunnes Stores