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TRANSCRIPT OF PROCEEDINGS

O/N 8909

TASMANIAN INDUSTRIAL COMMISSION

DEPUTY PRESIDENT R.J. WATLING

T No 10478 of 2002

GROUP TRAINING INDUSTRY AWARD

Application pursuant to the provisions of section 23 of the Industrial Relations Act 1984 lodged by the Tasmanian Trades and Labor Council re to vary clause 2 - scope, clause 2 - definitions, insertion of new clause 4 - wages and conditions, clause 5 - union representation, and clause 6 - operative date.

HOBART

10.30 AM, MONDAY, 28 OCTOBER 2002

HEARING COMMENCED

[11.45am]

PN1

MS L. FITZGERALD: I appear for the Tasmanian Trades and Labor Council.

PN2

MR T. KLEYN: I appear for the Tasmanian Trades and Labor Council.

PN3

MS J. THOMAS: I appear for the Tasmanian Chamber of Commerce and Industry Limited.

PN4

THE DEPUTY PRESIDENT: Thank you. Right, are there any preliminary matters we need to deal with Ms Fitzgerald?

PN5

MS FITZGERALD: I would like to seek leave of the Commission to vary my application.

PN6

THE DEPUTY PRESIDENT: And do you wish to - - -

PN7

MS FITZGERALD: Tender an exhibit.

PN8

THE DEPUTY PRESIDENT: - - - exhibit, right yes. I will mark this exhibit TTLC1.

EXHIBIT #TTLC1 VARY APPLICATION

PN9

THE DEPUTY PRESIDENT: And do you seek leave to amend your application along the lines of that outlined in TTLC1?

PN10

MS FITZGERALD: Yes, thank you.

PN11

THE DEPUTY PRESIDENT: Any objections to the amendment - to the application?

PN12

MS THOMAS: No.

PN13

THE DEPUTY PRESIDENT: Leave is granted to amend your application along the lines of TTLC1, Ms Fitzgerald. Have you any submissions to make in respect of this matter?

PN14

MS FITZGERALD: I think it is pretty straightforward and they are agreed matters.

PN15

THE DEPUTY PRESIDENT: Right. And you believe this to be consistent with the public interest and the wage fixing principles?

PN16

MS FITZGERALD: The principles, yes.

PN17

THE DEPUTY PRESIDENT: Mr Kleyn, have you anything to add?

PN18

MR KLEYN: No, I have nothing to add, Deputy President.

PN19

MS THOMAS: Right, I will make some submissions if you like, Deputy President. Just running over the history of this matter and looking to perhaps how we arrived at the position we are in today. This matter was first raised by the Trades and Labor Council in mid-1995 and in May 1996 you issued a decision to make the award title and scope and that was a decision dated 31 May 1996 in matter T6173 of 1996. A further hearing was then conducted on 10 June 1997 at which the parties updated you on progress towards finalising this award.

PN20

At that stage there hadn't been a lot of progress. A lot of explanations, but not too much progress. Further informal discussions have occurred between the parties since that time and recently we had the Award Review Conference. It was convened by the Commission as a consequence of the State Wage Case and since that Award Review Conference the parties have taken the opportunity of conducting further discussions. And finally reaching an agreement where we have decided to amend the award in the terms sought by the TTLC.

PN21

The difficulties that have been faced by the parties in finalising this award have been due to the scope and complexity of this industry and if we had sought to concentrate or focus our attention on those complexities we would never have reached the agreement we have today. The award, the proposed award is in some respects similar to the approach taken in the National Training and Wage Award where the relevant award will determine the minimum terms and conditions of employment for trainees employed by group training companies.

PN22

An award of this type doesn't offend the wage fixing principles and if we look at principle 11 first awards it talks about:

PN23

The main consideration shall be the existing rates and conditions. Other considerations will be that the award meets the needs of the particular

industry or enterprise and ensures that employees interests are also taken into account.

PN24

We would say that the award in the form that the parties are proposing certainly meets the requirements of the wage fixing principle in terms of first awards. In terms of the public interest we would say that the award meets the public interest requirements of the Act in the sense that it provides certainty and clarity for all parties participating in this industry, both employers and employees. So the award has merit in that regard. In terms of the reasons for making this award I think going back to your original decision where the titles and scope were made, those reasons continue to exist and the most important one of these being that group training companies remain a significant employer of trainees in this State.

PN25

At that stage Richard Warwick who was appearing on behalf of the TTLC at that stage predicted that there would be 1400 employees employed by group training industries or companies at the turn of the century. And that was quite an accurate prediction. I have recently noted some figures where at June 2001 there were in excess of 1500 trainees employed by group training companies in Tasmania. And I have no reason to believe that that number would reduce to now. Further reasons that were identified by you in your decision were that the training agreement does require that an award or agreement be nominated in the training agreement. The finalisation of this award will also close a technical loophole in training agreements where it is required to specify the relevant award, and there has been that technical problem where to date arguably whatever has been put into a training agreement hasn't been accurate.

PN26

We close by saying that the making of this award continues to be a positive function of the Tasmanian Industrial Commission, particularly with regard to the jurisdiction granted to it under the IR Act in terms of preventing and settling industrial disputes. So that concludes my submission. We consent to the application, operative from the first full pay period to commence on or after today's date.

PN27

THE DEPUTY PRESIDENT: Good. No further submissions? No. Well, I can indicate to the parties that I am prepared to approve the amendments to this award as outlined in exhibit TTLC1 and it will be operative from the first full pay period to commence on or after today, and I will hand down the written decision in due course. That concludes this matter, thank you.

ADJOURNED INDEFINITELY

[11.55am]

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LIST OF WITNESSES, EXHIBITS AND MFIs

EXHIBIT #TTLC1 VARY APPLICATIONPN9