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## **TRANSCRIPT OF PROCEEDINGS**

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O/N 8852

### **TASMANIAN INDUSTRIAL COMMISSION**

#### **DEPUTY PRESIDENT R.J. WATLING**

**T No 10409 of 2002**

#### **ICE CREAM MAKERS AWARD**

**Application pursuant to the provisions of  
section 23 of the Industrial Relations Act 1984  
by the Australian Liquor, Hospitality and  
Miscellaneous Workers Union - Tasmanian Branch  
to vary the above award re clause 8 - wage rates**

**HOBART**

**11.00 AM, TUESDAY, 8 OCTOBER 2002**

**HEARING COMMENCED**

**[11.00am]**

PN1

MR P. TULLGREN: I appear for the Australian Liquor, Hospitality and Miscellaneous Workers Union.

PN2

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

PN3

THE DEPUTY PRESIDENT: Mr Tullgren, I understand you wish to seek leave of the Commission to amend your application to clearly identify the changes to be made and that is, I understand, that you are seeking all safety net adjustments from 1993, the fourth and final minimum rates adjustment, a variation to the meal allowance and the supported wage to give effect to the last state wage case decision?

PN4

MR TULLGREN: Yes, your Honour, that is correct. When the application was made on 10 September, it sought purely to vary the award in relation to wage rates to reflect state wage case decisions. As a result of discussions with my friend, Ms Thomas, the parties have agreed to seek to vary the award, not only in relation to those wages, but to include the fourth minimum rate adjustment and to also vary the meal allowance and a supported wage payment. And therefore the union seeks leave to the degree necessary to verbally vary the application so as to provide for the inclusion of those additional three matters.

PN5

THE DEPUTY PRESIDENT: Good, thank you. Any objection to the application to vary?

PN6

MS THOMAS: No, I would have no objections to the application being varied in the terms sought but would also - I think for the purposes of clarity recommend that we also include the deletion of the supplementary payments provision of clause 8 which the parties have specifically agreed will be deleted.

PN7

THE DEPUTY PRESIDENT: Which is a drafting exercise, yes.

PN8

MS THOMAS: Yes.

PN9

THE DEPUTY PRESIDENT: Right. No objections?

PN10

MR TULLGREN: No, none at all.

PN11

THE DEPUTY PRESIDENT: Well, leave is granted. Mr Tullgren?

PN12

MR TULLGREN: Yes, thank you, your Honour. The application arises out of a conference which itself arose out of a decision in the last state wage case about reviewing various awards to ensure that they reflected the decisions of the Commission in relation to wages and the minimum rates. The parties have had discussions and have agreed to seek to vary the award, with the first increase being operative from today's dates - the first pay period on or after today; to insert wage case decisions since 1993 and also to include the fourth minimum rate adjustment. The award had been varied for the first three minimum rate adjustments but then mysteriously ceased - and also to delete the supplementary payments provision, increase the meal allowance to \$11.90 and a supported wage payment to \$56 per week. Now, your Honour, because of the adjustments to be made it will be necessary to seek to phase those increases in and I seek to tender to the Commission a schedule that sets out how some of those increases will be applied.

PN13

THE DEPUTY PRESIDENT: Right. We will mark this exhibit T1.

#### **EXHIBIT #T1 SCHEDULE OF PROPOSED INCREASES**

PN14

MR TULLGREN: Taking the Commission to the exhibit, it is proposed to increase - the first increase would apply from the first pay period on or after today's date and that would incorporate the minimum rate adjustment and state wage case decisions up to and including that in 1998. At the same time the order will delete the supplementary payments provision, increase the meal allowance to \$11.90 and the supported wage payment to \$56. There would then be a second increase in wages to the award, effective from the first pay period on or after 1 March 2003 and that would increase the rates to reflect the 1999 and 2000 state wage case decisions.

PN15

THE DEPUTY PRESIDENT: That is the safety net adjustments?

PN16

MR TULLGREN: Yes. There would then be a further increase on the first pay period to commence on or after 1 March 2004 which would increase rates by the second and third parts of the 2000 decision and the 2001 state wage case decision. There would then be a final adjustment from the first full pay period to commence on or after 1 December 2004 which would increase rates by an amount of the 2002 state wage case decision. Having said that, your Honour, the parties also agree that this proposal will not prevent the award being varied to reflect any decisions made by this Commission in relation to a state wage increase or safety net adjustment that may fall during the period between 1 March 2003 and 1 December 2004.

PN17

On the basis of past history one could expect that there will probably be a state wage case decision in 2003 and 2004 and they would occur in August based on, as I say, past history. So in effect while this schedule sets out increases in the rates of pay, after 1 March - prior to 1 March 2004 increase, the actual amounts may be increased simply because of any decision that is made in relation to the state wage case but it is agreed that the adjustment to the award will be ongoing but will incorporate the state wage case decisions. At the end of this process on the first pay period on or after 1 December 2004, the award, save for any act of God or unforeseen circumstance, will then fully reflect all wage case decisions and will be up to date in relation to wages, allowances and supported wage increases that may occur.

PN18

So, your Honour, it is a tidying up exercise - it does provide for the tiered increase in wages. In relation to the logistics, the parties would seek that if the Commission approves the variation, to issue an order effective from today to include the increases from today and also the increase that would apply from the first pay period on or after 1 March 2003. What the parties would then seek to do is that when the award is varied - if the award is varied as a result of any state wage case decision during 2003 and 2004, then the parties would be seeking that the Commission issue an order that increases the rates by that wage case decision and also by the next schedule wage increase.

PN19

So for example, if in August of next year, 2003, the award is varied for a state wage increase, the parties would apply at that time to vary the award not only to reflect that increase but also to incorporate the increase to apply on 1 March 2004 and the same process would be repeated in 2004. That is done more as a logistical tidying up exercise but would continue - would reflect the agreement but would ensure that the orders are not thrown out or the process is not delayed through human oversight. So, your Honour, that is the submission we seek to make. We say that it doesn't offend any state wage principles or any other provision in the Act and it is by consent and we would seek a Commission order - the Commission issue at least an order reflecting 8 October 2002 and 1 March 2003 increases as a result of today's proceedings.

PN20

THE DEPUTY PRESIDENT: Thank you. Ms Thomas?

PN21

MS THOMAS: Yes. In terms of the technicality of what has been agreed between the parties, Mr Tullgren has done a wonderful job of summarising the agreement between the parties which he has reflected in exhibit T1 so I won't go through those submissions again. The only remaining matter that needs mention at this stage is that at the conclusion of this process, at 1 December 2004 when the award is basically in line with all other awards in terms of safety net adjustments, that the minimum wage provision can then go into the award at that point in time and that would be included in that final application to vary the award - in 2004.

PN22

So yes, we would - in terms of the order to be issued by the Commission at this point in time, we agree with the submissions of Mr Tullgren that it would reflect the first two increases as agreed between the parties and the order operate effective from the first full pay period to commence on or after today's date. If it pleases the Commission.

PN23

THE DEPUTY PRESIDENT: Well, I can indicate I will hand down a written decision in due course and orders granting the application, certainly for the first two increases arising out of this application and the decision will note your foreshadowed increases in March 2004 and December 2004. However, I understand and accept that they were done by a separate application after any safety net or state wage case that may be held in that intervening period. I will set out in my decision also this exhibit which will clearly indicate the program that the parties had in mind at the time the matter was before me and that may assist in future when dealing with these issues and I am sure if another member of the Commission gets it in 2004 to deal with, it will be a little easier to understand. Certainly the transcript will be typed to enable the history file to show what happened on this occasion as well. That concludes this matter and orders will be issued in due course.

**ADJOURNED INDEFINITELY**

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**EXHIBIT #T1 SCHEDULE OF PROPOSED INCREASES .....PN14**