



Tasmanian Industrial Commission

Industrial Relations Act 1984

T Nos. **9851, 9852 and 9853**
of 2001

IN THE MATTER OF applications by
the Health Services Union of Australia,
Tasmania No. 1 Branch to vary the
Medical Diagnostic Services (Private
Sector Award, the Dentists Award, and
the Medical Practitioners (Private
Sector) Award

Re: the insertion of the provision of
Carer's Leave

COMMISSIONER ABEY

HOBART, 7 November 2001

TRANSCRIPT OF PROCEEDINGS

UNEDITED

(WOULD PARTIES PLEASE READ THIS TRANSCRIPT CAREFULLY)
(ANY QUERIES SHOULD BE DIRECTED TO THE COMMISSION WITHIN 14 DAYS)

HEARING COMMENCED 10.34am

COMMISSIONER: I'll take appearances please.

MR T. KLEYN: Commissioner, TOM KLEYN appearing on behalf of the Health Services Union of Australia, Tasmania No. 1 Branch.

5 COMMISSIONER: Thank you, Mr Kleyn.

MR M. WATSON: May it please the commission, MARK WATSON; I appear on behalf of the Tasmanian Chamber of Commerce and Industry.

10 **MR D. LOWE:** If it please the commission, DOUG LOWE; I appear on behalf of the Tasmanian Branch of the Australian Medical Association.

COMMISSIONER: Thank you, Mr Lowe.

15 MR KLEYN: Commissioner, the application we have lodged and is the subject of today's hearing seeks to vary three awards, the awards listed in the notification. The variation sought today is simply to insert the carers leave provision and association facilitative provisions into those three awards.

20 Commissioner this variation sought today is consistent with decisions made by the full bench of the Australian Industrial Relations Commission in the *Family Leave Test Case* which was Print L6900 of 29 November 1994, the *Personal Carers Leave Test Case* decision of the same commission of 28 November 1995 and a decision of the full bench of this commission in matters T numbers T6296 and T6441 of 1996.

25 The variation inserts the carers leave provision consistent with those decisions and as I said earlier, it also inserts the facilitative provisions arising out of those decisions.

30 I believe that the facilitative provisions are consistent with those decisions and are fairly self-explanatory and they are essence to provide for annual leave to be taken in a single day by agreement to utilise make-up time to allow some flexibility in hours, to introduce rostered days off by agreement and to introduce time off in lieu of overtime.

35 Commissioner, the variations, I believe, are consented to by the employer and I understand Mr Watson will confirm that today. I submit that the variations are consistent with the public interest test in the *Industrial Relations Act* and also consistent with the commission's Wage Fixing Principles.

40 As far as an operative date is concerned I seek a date of the decision.
That's all I have to say on the matter. Thank you.

COMMISSIONER: Thank you, Mr Kleyn. Yes, Mr Watson?

45 MR WATSON: Thanks, commissioner. Yes, I can confirm that we do
consent to these variations, commissioner, on the basis of test case
matter T6296 and T6441 of 1996 which was the full bench decision of
this commission in the *Personal Carers Leave Test Case* matter. The
orders as provided to us by Mr Kleyn are consistent with that decision
and on that basis we do consent to the variations.

50 The application, in our view, doesn't offend the commission's Wage
Fixing Principles or the public interest and we are also happy with an
operative date of the first full pay period on or after the date of your
decision. If it pleases.

COMMISSIONER: Yes, Mr Lowe?

55 MR LOWE: Commissioner, I simply wish to endorse the submissions
made by Mr Kleyn and Mr Watson in respect to this matter and would
not add further.

COMMISSIONER: Thank you, Mr Lowe. The operative date, Mr
Watson, you said first full pay period, is that your position?

MR KLEYN: I'm happy with that, yes.

60 COMMISSIONER: I'm satisfied that the applications are consistent
with both the public interest and the Wage Fixing Principles and they
will be granted operative from the beginning of the first pay period to
commence on or after day. The commission stands adjourned.

HEARING ADJOURNED 10.39am