



Tasmanian Industrial Commission

Industrial Relations Act 1984

T No. **9240 of 2000**

IN THE MATTER OF an application by
the Construction, Forestry, Mining and
Energy Union, Tasmanian Branch for
the making of the Mobile Crane Hiring
Award

Re: Title and Scope

COMMISSIONER IMLACH

HOBART, 24 November 1999

TRANSCRIPT OF PROCEEDINGS

Unedited

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

HEARING COMMENCED 10.35am

COMMISSIONER: I'll take appearances.

MR B. BODKIN: If the commission pleases, I appear for the CFMEU Tasmania Branch, BODKIN.

5 COMMISSIONER: Thanks, Mr Bodkin.

MR P. MAZENGARB: If the commission pleases, PAUL MAZENGARB, representing the Tasmanian Chamber of Commerce and Industry.

10 COMMISSIONER: Thanks, Mr Mazengarb. Mr Bodkin, have you had discussions with the other side, have you?

MR BODKIN: There have been discussions, I believe, by telephone and correspondence and I've had a short discussion with Mr Mazengarb this morning. It would seem at this stage that there's no agreement on this matter. The union is seeking a state award in the mobile crane hire industry in Tasmania to cover areas that are not presently regulated by an award.

20 There are some operators in this industry who are covered by the federal award but there are others who would appear to be award free and it's those others that we're seeking to pick up by means of an award which would, in large measure, reflect the terms and conditions of the federal award.

25 Mr Mazengarb has pointed out this morning that he had asked the union by fax some ten days ago to identify the employers that we, the union, say are not covered by the federal award. Apparently, that hasn't been done although the union is in a position today to identify those employers.

30 I suppose our concern at the moment is, we have provided the TCI with a draft of our proposed award and there has been some discussion over that. One of the avenues we would like to explore is, in the event that we can satisfy the commission there is a need for an award and that there are employers to whom it would apply, whether there can be agreement reached on the actual terms and conditions as per the draft.

35 COMMISSIONER: I'm sure, Mr Bodkin, that you'd be familiar with procedure and I certainly say that I'm reluctant to proceed unless there is an amount of agreement on this matter but of course, if necessary, we will proceed but I can't see us proceeding initially without at least a good go at reaching agreement, at least on the name and the scope.

MR BODKIN: That would be the union's preference, that if possible, that all things be agreed.

COMMISSIONER: What do you suggest we do today?

MR BODKIN: I think the best thing would be if the parties could confer and obviously we're not going to be in a position today to put a firm proposition or submission to the commission as to the terms and conditions of the award but perhaps if the parties could confer today and that there be a report-back to the commission, possibly in two weeks time, where perhaps we would be in position. I don't know how long it would take my friend to contact any members he may have who would be affected by the application.

Hopefully, we could be in a position to progress this at least before Christmas, let me put it that way.

COMMISSIONER: We'll hear from Mr Mazengarb of course but it seems to me, Mr Bodkin, that perhaps if you have a talk with him this morning, get some agreement on the procedure, forward procedure, and when we're going to meet again, that would be a good thing. What do you think?

MR BODKIN: I think it would be a good thing. I suppose the other thing that comes to mind is, the identification of the parties that have an award interest. I'm not too sure what the procedure would be there but I realise we would need to satisfy the commission that the CFMEU first of all has eligibility to cover these people. I don't think we'd have any difficulty there. I don't think there will be any question about that.

The second would be, whether we have any members. Well, I think we could satisfy the commission in that regard too.

COMMISSIONER: Yes. That's where I would hope there's quite a measure of agreement, Mr Bodkin. I would expect that on both sides, if there are employers and you have members, that that should be a matter of pro forma really and I'm certainly happy to endorse to that extent the award. In other words, the name, the scope and who's got interest in it and I don't think you'll find too much trouble with Mr Mazengarb, as long as the facts are quite clear. Let's hear what he says. Yes, Mr Mazengarb?

MR MAZENGARB: Thank you, Mr Commissioner. To a degree, what's been stated, is correct by my colleague. I will correct one comment though. He did indicate that TCCI had been in correspondence with the union on 13 November. In actual fact that was the second of two pieces of correspondence. The first was, 1 November, where we did ask to be provided with details in relation to the claim.

There were two issues that we were pursuing. One was the allowances that were sought in the application and that's been clarified. The

second issue related to providing information to us with regard to who they intended covering, who the employers were, so that, to use our expression in that letter of 1 November, we could facilitate this hearing that was scheduled for today.

- 5 Unfortunately, my colleague is in a bit of a difficult situation because I wasn't having the discussions with him, so there's been a breakdown in communications with regard to that information that's coming back.

10 From our perspective, because of the lack of information that we need to have to assess this matter and to talk to our members, if there are any members covered, that is members of the TCCI, covered by this application, we would like to see those employers that are intended to be covered so that we can correspond with them and get some direction in relation to where we go with this matter.

15 In relation to the suggestion that we have a discussion today in relation to where we go, I'm quite happy to do that. I'm more than happy to set down a date in the future, be it in the near future, certainly before Christmas, with a view to facilitating this matter.

20 In relation to the comment made, certainly, if we can be provided with the information with regard to the employers that are intended to be covered, I can give an assurance to both the union and to this commission, that I would get information out to those employers as quickly as I possibly could, hopefully within the next day or two if I receive that information this morning. If the commission pleases.

25 COMMISSIONER: Thanks, Mr Mazengarb. I think we'll adjourn now and if you gentlemen can come to an agreement on the matters that have been raised, call me back and we'll fix the date. I think that's all we need to do.

Thank you, gentlemen.

HEARING ADJOURNED SINE DIE 10.43am