

TASMANIAN INDUSTRIAL COMMISSION
Industrial Relations Act 1984

T Nos. 5455 of 1995 and 6585 of
1996

IN THE MATTER OF applications by the
Automotive, Food, Metals, Engineering,
Printing & Kindred Industries Union to vary
the Automotive Industries Award

re restructuring of the conditions
component of the award and the insertion
of the supported wage system clause

PRESIDENT

HOBART, 20 December 1996
continued from 13/12/96

TRANSCRIPT OF PROCEEDINGS

Unedited

PRESIDENT: Mr Baker?

MR BAKER: It's continuing, sir. I hope this is our final hearing this morning.

PRESIDENT: Yes. So do I. We've got about an hour.

5 MR BAKER: The document - sorry, I'll rephrase that. Another draft, dated 17 December 1996, has been circulated to all parties who are respondent to the award, both employer and employee organisations and I have taken notes from the parties in so far as that draft is concerned and I can report to you, sir, this morning, that I believe we have a document that will be the new Automotive Industries Award.

10 There are a couple of clauses which we just need to do a little bit of work on this morning. One is in relation to the definition of casual employee and the other is in relation to the provisions for overtime. You will recall, sir, that we had some considerable discussion concerning the existing clause 23(d) of the award and what the last paragraph of 23(d) actually means.

15 Ms Thomas this morning has provided me with an explanation of what it is supposed to mean. Whether or not I can concur with her interpretation, is another matter.

PRESIDENT: Do we need another hearing? Hopefully not.

20 MR BAKER: Well, I must admit, sir, that if Ms Thomas insists that we insert the provision into the award today and come back next year and try and sort out what it means, I have no objection to that but I just sort of raise that as a point, that they are really the only two issues that are outstanding this morning and as I said, I'm sure we can sort out the overtime issue.

As far as the casual definition is concerned, I'd be very surprised if we can't come up with some words this morning as to give effect to that.

25 I'm also in receipt, sir, of some correspondence from the TACC, which arrived yesterday in my office and I've spoken to Ms Yilmaz of the VACC in respect of that and I believe that her concerns are dealt with as far as the documentation is concerned. I would suggest subject to any comments either from my colleagues or from Ms Thomas, that we should adjourn into a conference under your chairmanship for a very short period of time, just to sort out the issue of the casual employee and the overtime provision and then go back on record and quickly go through the document that is before you headed, draft 17 December 1996.

PRESIDENT: Very good. Ms Thomas.

MS THOMAS: I just support the adjournment into conference.

PRESIDENT: Okay. There's no objection to that.

35 Very good. We'll do that - we'll adjourn into conference. Thank you. I'll stay here, to save time.

INTO CONFERENCE

PRESIDENT: I think that's been a fairly fruitful conference. Would you like to report on it, Mr Baker?

40 MR BAKER: Yes, sir. I think as a result of the discussions that we've had, we now had a draft order which is headed, draft 17 December 1996, which has been the subject of some discussion between us. We have made some necessary adjustments

to the document and I believe that we can offer our consent to the document that's already been handed to the commission.

5 In doing so, sir, I think it's probably appropriate for me to say a few things about the document and the process that at times has been quite tortuous, over the years. It has taken us some three years to get to this position and two members of the commission and it has started off, I must admit -

PRESIDENT: One of whom gave up and left.

MR BAKER: I do beg your pardon, sir. We've had three members of the commission.

10 I must admit, sir, at the commencement there was some antagonism between the parties as to achieving the result that we've achieved today but I don't see this as the conclusion of finalising the conditions of service in the Automotive Industries Award.

15 I believe there are a number of provisions which have been highlighted by myself in previous submissions in so far as this application is concerned which deal with discriminatory provisions which continue to apply in the award and also, in my opinion, to provisions in the award which are out-dated - matters which I've referred to previously which relate to shop trading hours, which are of course now quite different than they were when this award - or provisions in this award were inserted.

20 I indicate to the commission that it will be our position that at some stage during 1997, there will be an application made by the AMWU to remove, or seek to remove those discriminatory and out-dated provisions which continue to unfortunately haunt this award.

25 However, having said that, it is with some delight, I might say, that we have reached the position that we have today, that the old Automotive Industries Award which quite frankly, for all intents and purposes, in many areas is unenforceable at law, is difficult to read and quite frankly, is a bloody mess, is going to be replaced with a document which I hope people will be able to refer to and will be able to interpret the document in a consistent basis and for employers and employees in the industry, I think that will provide some welcome relief to what has been, as I have indicated, a pretty awful document.

30 So, with that, I would commend my colleagues for their patience over the last three years, to the TCCI and indeed the commission for it's forbearance and its persistence in bringing us to a stage where we have a new Automotive Industries Award.

PRESIDENT: Operative date, Mr Baker?

35 MR BAKER: The operative date I would suggest to you, sir, would be, I think, effectively from the date of issue of the new award.

PRESIDENT: The first full pay period?

40 MR BAKER: The first full pay period to commence on or after the date of issue of the award. I think that is probably the most realistic position to adopt in the circumstances.

PRESIDENT: Yes. Mr Long.

MR LONG: Well, I've got nothing further to add, sir, only to echo the sentiments of Mr Baker and I would also support the submission of the operative date. Thank you, sir.

PRESIDENT: Yes, thanks, Mr Long. Mr Noonan.

MR NOONAN: Mr President, we support the amalgamation of divisions within this award. I believe it goes a fair way to the principles as laid down in 7.3.2.3 of the principles, as espoused by this commission and I support the operative date. If the
5 commission pleases.

PRESIDENT: Yes. Very good. Thank you, Mr Noonan. Ms Thomas.

MS THOMAS: Thank you, Mr President. This is a consent document before you today. I would state that the application is in accordance with the wage fixing principles both in relation to the broad concepts outlined under the structural
10 efficiency principle but also, as Mr Noonan points out, the exercise really embraces most of the matters contained in the award review process as envisaged as part of the granting of the third safety net adjustment.

Finally, I would consent to the operative date sought by Mr Baker. It may be prudent, Mr President, if before you issue the award, that we be given an
15 opportunity just to give it a quick glance.

PRESIDENT: You'd like to be provided with a copy of the proposed award, prior to issue?

MS THOMAS: Yes. If it pleases.

PRESIDENT: Yes, I think that's a good idea. Well, thank you very much for your
20 hard work and patience in seeing this matter to its conclusion. I think you've all done a very good job. It's not been an easy task because, as Mr Baker rightly pointed out, the award was dreadfully outdated and was in quite a mess. I accept all that and of course the commission and the parties have got to bear equal responsibility for that, I suspect.

25 However, I think we're on the path to putting out an award which will be appropriate for the industry and capable of being read by people who have to use the award.

Thank you very much. The award will be issued in the manner in which it's been provided, as a consent document, and I agree with the parties, that it meets all the requirements of the principles. The effective date will be from the first full pay period
30 on or after the date of issue of the award.

Thank you very much.

HEARING CONCLUDED