

TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984

T Nos 3788, 3848, 4115 and
4116 of 1992

IN THE MATTER OF an application by
the National Union of Workers,
Tasmanian Branch to vary the
Wholesale Trades Award

re integrated classification
structure; third minimum rates
adjustment; integrated
classification structure; and
minimum rates adjustment
respectively

PRESIDENT

HOBART, 18 December 1992
continued from 9/7/92

TRANSCRIPT OF PROCEEDINGS

Unedited

PRESIDENT: Could I have appearances please?

MR D. STRICKLAND: If the commission pleases, I appear on behalf of the National Union of Workers - STRICKLAND, D.

PRESIDENT: Thanks, Mr Strickland.

MRS H.J. DOWD: If the commission pleases, I appear on behalf of the Federated Clerks Union of Australia, Tasmanian Branch, DOWD, H.J.

PRESIDENT: Mrs Dowd.

MR B.J. HANSCH: If the commission pleases, HANSCH B.J., appearing for the Transport Workers Union of Australia.

PRESIDENT: Mr Hansch.

MR M.C. SERTORI: If the commission pleases, SERTORI M.C., appearing on behalf of the Tasmanian Confederation of Industries.

PRESIDENT: Thank you, Mr Sertori. Well, Mr Strickland, what are we dealing with this morning?

MR STRICKLAND: Thank you, Mr President. There would be - or the NUW would request that the application to insert an integrated structure be adjourned.

PRESIDENT: That's application 4115 is it?

MR STRICKLAND: Yes - and that we proceed only with the application to increase wage rates for the third and fourth minimum rate adjustments for stores and warehousing stream of the award and the wholesale seller of electrical goods.

PRESIDENT: Yes, I see, and that's in relation - that's application, I take it - we're looking at the third minimum rates adjustments as well as fourth?

MR STRICKLAND: Yes.

PRESIDENT: Yes, so is that the application 3848 - and then backed up I think by a further one 4116?

MR STRICKLAND: That's right, that's correct.

PRESIDENT: Yes, alright, thank you. Well we might join those two tentatively. What is the - is there a - an alternative point of view from any of the other parties?

MRS DOWD: No, Mr Commissioner.

PRESIDENT: No objection, Mr Hansch?

MR HANSCH: No objection, Mr President, just a point of clarification; we've referred to three application numbers but what of T.3788 which is also, I believe, an application for the integration of the classification structure as well?

PRESIDENT: Yes, yes. Well I assumed, and I should have made note of it that that would be picked up in the application for adjournment because I think -

MR HANSCH: Yes.

PRESIDENT: - 4115 picks up 3788.

MR HANSCH: That was my understanding as well, Mr President, but I just wondered because that number wasn't mentioned, sir.

PRESIDENT: You're quite right.

MR HANSCH: Thank you, sir.

PRESIDENT: Do you agree with that, Mr Strickland?

MR STRICKLAND: Yes, Mr President.

PRESIDENT: Yes, thank you. Very good. We'll proceed to deal then with the - the two applications, 3848 and 4116 being minimum rates adjustments applications.

MR STRICKLAND: Thank you, Mr President. We've at a last minute been able to agree on a draft order there; it's being finally prepared by Mr Sertori as a result of some inconsistencies with my figures, so if Mr Sertori doesn't mind we might get him to present the - the document.

PRESIDENT: Does Mr Sertori mind?

MR SERTORI: I'll send the bill to the NUW I think. Mr Strickland's discovered you don't prepare draft orders for the commission at the office party and regrettably overnight at my hotel I had to try and redraft the order and so at some expense to the hotel, I might add at a dollar a copy per page, I hope the TCI will pick up this tab, so some of it's hand -

PRESIDENT: Well you know where to send it if they don't.

MR SERTORI: The NUW, that's right. So the - unfortunately some of it is handwritten and I might have to take the commission through so that the figures are clear, but -

PRESIDENT: Yes.

MR SERTORI: - I'll commence my tabling as an exhibit.

PRESIDENT: Yes. We'll mark this TCI.1.

MR SERTORI: Before I address the substance of TCI.1, perhaps just so that there is no ambiguity I might just make sure that the figures are clear to the commission on - on the exhibit.

PRESIDENT: Yes.

MR SERTORI: Perhaps rather than recite this, if we turn to the first page, I'd ask the commission if any of those figures are unclear, just one that might - doesn't look as though it's photocopied too well - is the base rate proposed for level 1 after 2 months of service which is 325.80.

PRESIDENT: Yes.

MR SERTORI: I think -

PRESIDENT: What's the level 3 supplementary, is that 50 -

MR SERTORI: Fifty dollars and 40 cents. The -

PRESIDENT: And the one down the bottom for junior employees, is that 364.60?

MR SERTORI: That's correct, yes. In the - I notice a blank which I didn't fill in, under (b) - Junior Employees - Warehousing Stream - it should read: The minimum rates of wages to be paid to a junior engaged under the stores and warehousing Stream.

PRESIDENT: Stores and warehousing. Right, insert that. Yes, thank you.

MR SERTORI: Then perhaps over the -

PRESIDENT: I think everything else on that page is clear.

MR SERTORI: Is clear. Over the page, I think those figures have reproduced clearly.

PRESIDENT: Yes.

MR SERTORI: And the concluding page, that figure 3B is \$406.90.

PRESIDENT: Yes.

MR SERTORI: It's not in fact amended. And under the Juniors, the last two rates are \$311.80 and \$326.30.

PRESIDENT: Very good.

MR SERTORI: The last occasion that the commission varied this award in respect of the stores and warehousing stream and manufacturing and packing stream was on 20th December, and that was the second minimum rates adjustment, and you'll recall on the next occasion it was due, we became embroiled in the question of integrated structure.

PRESIDENT: Yes.

MR SERTORI: What we propose therefore to do today by consent is to complete the minimum rate adjustment process for that section of the award - the stores and warehousing stream and manufacturing stream - the fourth minimum rates adjustment is due around now in any event. The commission should be aware, I think we bring it forward some 2 days, but we would submit by consent that - that at least we would ask because that's by consent that the commission would approve arrangement so we can complete this process in the award, for the completion of that -

PRESIDENT: You don't - you don't think that conflicts with the minimum rates principles?

MR SERTORI: No, it doesn't, in fact the principle allows for the parties by consent to seek other arrangements. In this occasion at worst we're talking about a couple of days for - and that in most cases would result in the same pay period that otherwise would have been the case.

The TCI for its part recognises the patience of the NUW delay of the third minimum rate adjustment and given there was some expectation that that would have passed through by now, we think it's appropriate and affordable that the two be brought together and the process completed and it's fairly important that process be completed so that we can address the further classification review of the award.

So you have the target rates achieved in respect of those two sections. There are consequential adjustments that have been made to the junior rates with the result of them being a percentage of an amended rate and then in - we move through to the wholesale seller of electrical goods, and the parties will have to address some difficulties with these rates that you may have been alerted to on the last occasion we were before you in that it is proposed that those rates - that those classifications ultimately be totally integrated into the existing classification structure for the stores and warehousing stream which would be appropriately retitled. The difficulty we have, some of those rates in fact contain excess amounts to the target percentages and that's something that the parties will have to address.

And it's for that reason under wholesale of electrical goods, you'll see that some rates have not in fact varied because

they're in excess of or at the target that the parties have - are for, in fact the commission has approved.

PRESIDENT: Yes.

MR SERTORI: The - we have amended level 1 and introduced the three categories or the progressive arrangement to the full rate for level 1 as is the case already for wholesale seller of electrical goods. We've done that to try and ease the transition into the new structure, and as a result of those changes there's consequential change to - to juniors.

And the wholesale seller of electrical goods, what we've proposed to do today is in fact introduce the second and third minimum rate adjustment and the fourth will have to be subsequently processed, that maybe the occasion of the fourth we're able to move these classifications across.

There's some - some further research and some particularly complex problems that we need to overcome with minimum disruption to the work face in trying to move these classifications across.

PRESIDENT: And what would be the target date for the conclusion of minimum rates on wholesale of electrical goods?

MR SERTORI: That's the matter for discussion between the parties. I guess at this stage it's subject to 6 months from today's date.

PRESIDENT: Yes.

MR SERTORI: But I - there have been some preliminary discussions and it would be the TCI's view that in the interest of simplifying this award, because it is rather complex at this moment, we would look at negotiating an earlier date of introduction with the NUW in order to, as I say, to - to allow the classification amendments to be made that are necessary and we're also conscious of pending changes to our legislation that may affect us as well.

PRESIDENT: Mm. Yes, who can tell?

MR SERTORI: Who can tell - that's right. Who knows? Guerilla warfare tactics might just change the face of the earth yet, as Mr Hansch might -

PRESIDENT: Yes, I've heard murmurings of - of that.

MR SERTORI: It's an interesting way to wake up at 5.30 in the morning to hear all that. The proposed operative date, as I said, it's not inserted in the exhibit - it is from the beginning of the first full pay period to commence on or after today's date being the 18th.

The - we believe that - that the order as presented in the application as made and consented to should be approved by this commission in accordance with the principles. With regards to section 36 of the act, the schedule of minimum rates adjustment have been known to the industry and anticipated and there's been some - some questions raised by certainly our members as to the delay of the last minimum rates adjustment for those that had anticipated increases they've been budgeted for, so we would suggest that where there is any impact that might result in wage increase that section 36 of the act is satisfied. We have an undertaking from the NUW that they continue their commitment that the minimum rates adjustment be fully absorbed into existing over-award payments which Mr Strickland will no doubt confirm and on that basis, sir, we would seek, particularly in light of an operative date of today's date, your indication of your position hopefully today. If the commission pleases.

PRESIDENT: Yes, thank you, Mr Sertori. Well Mr Strickland, that was, I would have thought, a fairly helpful submission from Mr Sertori.

MR STRICKLAND: Very helpful indeed, and we thank him very much.

MR SERTORI:

MR STRICKLAND: But yes, the NUW would just confirm and I think it's inserted in the award anyway that any - that we would see the minimum rate process being absorbed against any over award payment, but I don't have anything further to add.

PRESIDENT: Mrs Dowd?

MRS DOWD: No comment, Mr President.

PRESIDENT: No. Mr Hansch?

MR HANSCH: No comment, Mr President.

PRESIDENT: No, thank you very much. Well thank you for those submissions. I have no difficulty in approving the application and in accordance with the order presented as TCI.1, noting that the third and fourth minimum rates adjustments for the two - two streams shall be concluded with effect from the first full pay period on or after today's date, and that the third minimum rates adjustment in relation to wholesale seller of electrical goods is established and that there will be further submissions in relation to that at a later stage. A decision on that will issue in due course, but for the purposes of the record on the transcript, the decision is now made.

MR SERTORI: If the commission pleases, a very technical point, that is clarified -

PRESIDENT: Yes.

MR SERTORI: - the way you describe the operative date - just for the purpose of getting my records right as I advise members - you said from the beginning of the first full pay period or from the first full pay period?

PRESIDENT: The first full pay period on or after today's date.

MR SERTORI: But not from the beginning?

PRESIDENT: No, no, no.

MR SERTORI: I'm not sure what the significance is, but I just wanted to report -

PRESIDENT: Did I say that?

MR SERTORI: Well I've written from the beginning of the first full pay period - you used different words.

PRESIDENT: Yes, well if I said it, it was an aberration.

MR SERTORI: And so it will be from the beginning?

PRESIDENT: Yes, that was an aberration - it's the first full pay period commencing on or after today's date.

MR SERTORI: Well it's simply for the accuracy of -

PRESIDENT: Yes, quite right.

MR SERTORI: - our office award.

PRESIDENT: That's the way it would have been recorded in the decision.

MR SERTORI: Thank you, sir.

PRESIDENT: Now in respect of the other matter, I don't want to become embroiled in any major argument, but what - what are we looking at here in terms of the integrated structure? Mr Sertori?

MR SERTORI: Perhaps if I could report, at this stage we're still aware - and I'm not sure of the exhibit number NUW - the NUW have produced a proposal which I think they tabled before this commission -

PRESIDENT: Yes.

MR SERTORI: - which provided a structure of - and titled wholesale establishments which had particular substreams, administrative substreams, a distribution substream and a wholesaling substream.

At this stage there has been some significant redrafting of that document and the Federated Clerks Union for its part has considered those changes and although it has not given its position has certain reservations about that document. I think it would be a fair account of those discussions to say that we have made substantial progress and we're highly confident of achieving consent with the Federated Clerks Union.

The position of the Transport Workers Union is that they remain opposed to - well they certainly oppose that proposal is my understanding and perhaps Mr Hansch can clarify. I understand they further the concept of their classifications being integrated as such - certainly integrated in the manner the parties seek.

At this stage we've sought the adjournment to allow opportunity for further discussions so we can listen to the TWU viewpoint and they have undertaken some various courses that ultimately bring themselves back to these negotiations and in the event that we are unable to find consent we would see early in the new year presenting argument to you with some parties consenting that we put a - an integrated structure into this award. And I suspect that given the differences between the parties, those who desire that structure and those that don't, it is probably unlikely consent will be found on this matter. And I think that's a fairly accurate report.

PRESIDENT: So there'd be no - no value in the commission becoming involved until you get through these current discussions?

MR SERTORI: I think that the commission's involvement would be welcomed at - at a certain point of time. I think that that's probably premature at this point and I welcome your offer as I saw it an offer. I'm just conscious in saying that - that it is - it's not my application but I think in discussions I've had with Mr Strickland he would welcome that input if that was able to help the parties. Not - perhaps - well help the parties in achieving consent but more - more importantly if we are unable to achieve consent to help ultimately this commission when arguments are presented so that it is a little more straight forward than perhaps it has been on that previous occasion when there are a number of technical problems that we've had to address that had distracted us from the main principle we were trying to address, and that is, whether or not an integrated structure could be achieved in this award.

But I've highlighted one of those difficulties - for example - the wholesale seller of electrical goods - we have problems with rates being different - we've had some problems in banding those classifications into existing arrangements as we do with clerical classifications where they have achieved different relativities and slightly different arrangements in their other awards.

Now I believe we can overcome the difficulties - the clerks - we can overcome the difficulties of the wholesale seller - it's not a simple matter - but we - it's very difficult to overcome the problem of the TWU principally because their position is one of opposition not of - to the integrated structure, but as a result nothing as an alternative is really put to us, so it makes it extremely difficult.

If the commission pleases.

PRESIDENT: Alright, yes, thanks. As I say, I didn't want to start an all-out debate on - on the subject, but I was just interested to know where we are with it because it has been concerning me that it's been sitting there waiting to be dealt with for some time.

Alright, well if no-one else has any - oh, Mrs Dowd?

MRS DOWD: Mr President, if I may, I'd just like to confirm that we have had discussions with the TCI and also with the National Union of Workers in relation to integration of a structure. We have come to agreement in relation to the relativities, but there are a few minor adjustments that we actually seek in relation to the skill levels that are to be inserted for those relativities.

Those discussions will be ongoing and hopeful in the new year we will actually be able to come back here with an integrated structure.

PRESIDENT: Very good. Well thank you all once again for your contributions. Those two matters we've dealt with are concluded and the other matters are adjourned sine die. Thank you.

HEARING ADJOURNED SINE DIE