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TRANSCRIPT OF PROCEEDINGS

O/N 3069

TASMANIAN INDUSTRIAL COMMISSION

COMMISSIONER T.J. ABEY

T No 12691 of 2006

**COMMUNITY AND HEALTH SERVICES
(PUBLIC SECTOR) AWARD**

**Application pursuant to the provisions of
section 23(2)(b) of the Industrial Relations Act 1984
by the Minister Administering the State Service Act 2000
to vary the above award re clause 30 - recall, on call
and close call**

HOBART

9.30 AM, THURSDAY, 29 JUNE 2006

**This transcript was prepared from tapes recorded
by the Tasmanian Industrial Commission**

HEARING COMMENCED

[9.30am]

PN1

MR R. CLEGG: I appear for the Minister administering the State Service Act 2000.

PN2

MR T. KLEYN: I appear for the Health Services Union of Australia, Tasmania number 1 branch.

PN3

MR M. JOHNSON: I appear for the Community and Public Sector Union, State Public Services Federation, Tasmania.

PN4

THE COMMISSIONER: Thank you. Mr Clegg?

PN5

MR CLEGG: Thank you, Commissioner. Before I start I think I had best give you a bit of background on this. There is a dispute notification that we put in late last year in relation to the bans on being available for standby and availability in the LGH and patient transport. Now, as a result of that, the call out, standby and availability allowance clause in the Public Sector Union's Wages Agreement Number 2 of 2004 was hurried up a little bit to - with the working party put together to look at the clause and the need to vary the community and public - the Community and Health Services (Public Sector) Award to allow for the new - to put the availability clause back in the award that was left out when the award was varied, or when the award preceded the hospital employees' public sector - Hospital Employees Public Hospitals Award Number 5 of 1991 that was consolidated.

PN6

Our current award supersedes that and when that award was made they forgot to put the availability allowance clause back in there and so the working party that was established under clause 27 of the public sector union wages agreement agreed to the new wording of - to vary the clause to put a new clause A in, which is before you at the moment, but the application is there. And that clause is availability and it outlines what is required by the employee to be available to return to work or not.

PN7

The clause also takes into account the way that the people do actually work when they are on call or available in that if they are called out they don't have to return to work to repair the problem or fix the problem and the terminology of course reflects that. So it is a consent matter and we believe that it meets section 36 of the Tasmanian Industrial Relations Act 1984 in that it is consistent with the wage fixing principles and it meets the public interest test of the Commission. If the Commission pleases.

PN8

THE COMMISSIONER: Yes. Mr Kleyn?

PN9

MR KLEYN: Commissioner, this is quite a long saga for me, this one. I was involved in the award restructuring of the Community and Health Services (Public Sector) Award. There was, at some stage, an on-call provision, but during some negotiations and also, I think, through a Commission process it fell out of the award at some stage. The clause before you, we consent to it. We have consulted with our members affected by it and they are happy with it. So there is no dispute from our part - or no disagreement on our part to this - to the award being varied in such a manner.

PN10

It is a considerable increase for our members who are being required to be on call. So clearly they are happy with it. It does reflect existing practice. There are a range of people within the agency that are required to be on call and are recalled to work from time to time. So I also believe that it is consistent with the wage fixing principles and is consistent with section 36 of the Act. So I ask for it to be approved and the award varied, please.

PN11

THE COMMISSIONER: Yes. The dispute that Mr Clegg referred to, has that been resolved?

PN12

MR KLEYN: Well, I can give you the T number for that, Commissioner. It is 12376 of 2005. The dispute wasn't resolved and this, in effect, should be - well, is the resolution of the dispute because the dispute really was about how much people were being paid to be on call, particularly in light of various other groups receiving significant increases. So I would assume from this that that dispute notification will be withdrawn by the Minister.

PN13

THE COMMISSIONER: Thank you. Mr Johnson?

PN14

MR JOHNSON: Thank you. We have also consulted with our members on this and also consent and thank the parties.

PN15

THE COMMISSIONER: Yes. Thank you. Having heard the parties, I am satisfied that the requirements of the - the application is consistent with the wage fixing principles and the public interest requirements of the Act. The award will be varied to reflect the application. Operative from today?

PN16

MR KLEYN: Today.

PN17

THE COMMISSIONER: Operative from 29 June 2006. A formal decision to that effect will be issued in the next few days. The Commission stands adjourned. Thank you.

ADJOURNED INDEFINITELY

[9.40am]