

TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984

T Nos 4727 and 4728 of 1993

IN THE MATTER OF applications by
the Australasian Meat Industry
Employees Union to vary the Meat
Trades Award and the Abattoirs
Award

re call back, Saturday work,
standing by, transport of
employees, and travelling time

COMMISSIONER GOZZI

HOBART, 25 May 1994
continued from 12/4/94

TRANSCRIPT OF PROCEEDINGS

Unedited

COMMISSIONER GOZZI: Are there any changes in appearances in this matter this morning? If not, I think we adjourned last time on the basis that there may be a measure of agreement on some of these outstanding issues. Who would like to go first? Mr Edwards?

MR EDWARDS: Thank you, commissioner. As you've rightly indicated, sir, the adjournment last time was to enable the parties to confer to see whether they could reach agreement on a form of words to be incorporated into the awards to reflect the measure of agreement that had been reached at that time. I think from memory I was being a little bit coy using the - a set of words to describe where we're at -

COMMISSIONER GOZZI: Yes.

MR EDWARDS: - but nevertheless I think the adjournment has been well used and I can indicate to the commission that we have reached agreement on a resolution to these claims. I have passed to your associate immediately prior to proceedings a copy of a proposed draft order.

COMMISSIONER GOZZI: We'll mark that - and I think it's TCCI - it might even be the first one.

MR EDWARDS: It would be, commissioner.

COMMISSIONER GOZZI: Alright, TCCI.1.

MR EDWARDS: Thank you, sir. TCCI.1, commissioner, is a draft order directed at the Abattoirs Award and I will undertake to provide a similar document for the Meat Trades Award, but I needed to get Mr Swallow's final agreement to the words before I went too far down that track.

COMMISSIONER GOZZI: Right.

MR EDWARDS: The draft order deals exclusively with clause 35 of the Meat Trades Award which is the overtime clause.

COMMISSIONER GOZZI: The Abattoirs Award.

MR EDWARDS: Oh, the Abattoirs Award.

COMMISSIONER GOZZI: Right.

MR EDWARDS: Old habits - and varies a number of provisions. In respect of the first variation in TCCI.1, it varies subclause (h)(i) by deleting the words 'maintenance employees and' which means the existing (h)(i) would then apply only to drovers and incorporates then by variation No.2 a new provision which deals with maintenance employees providing a minimum call back period of 4 hours. That is consistent with the claim by the AMIEU and in addition has its origins in the

federal Metal Industry Award and is what could be described as a fairly standard prescription through industry generally for maintenance employees.

COMMISSIONER GOZZI: Mm.

MR EDWARDS: It goes further and indicates that the employee may not be required to work the full 4 hours if the cause of the recall is rectified within a shorter period - and again, that's a fairly standard prescription.

COMMISSIONER GOZZI: Mm.

MR EDWARDS: The large paragraph in the middle of the exhibit talks about custom - the custom of an employee returning to the employer's premises to perform a specific job outside his ordinary working hours, which therefore are saying that is saying that is not a recall for the purposes of this minimum 4 hour provision and an example of that would be the refrigeration serviceman who often attends at the premises just to check that things are running smoothly.

COMMISSIONER GOZZI: Right.

MR EDWARDS: And overtime worked in accordance with the circumstance as specified in this subclause is not regarded as overtime for the purposes of computation of the minimum 8-hour break between shifts. And again that's a fairly standard prescription.

COMMISSIONER GOZZI: Right. So how does it work then? There's a 4 hour minimum payment at the appropriate rate?

MR EDWARDS: Yes, which would invariably be an overtime rate of pay but we've used the appropriate rate because it could be time and a half or it could be double time - depending on the circumstances. If it's the first overtime worked in the day by the employee then it would almost certainly be time and a half. If it were, after having worked overtime earlier in the same day, then it would almost certainly be at double time. So we can't be any more specific than that. But it is the appropriate overtime rate, and if that word helps then I'm not unhappy to have it included. But it could also be recall to work on - no they only apply on Monday to Friday work because Saturday is dealt with elsewhere in the award.

COMMISSIONER GOZZI: Yes, so you are really saying that the 4 hour - minimum 4 hours will be paid at the overtime rate.

MR EDWARDS: That's correct.

COMMISSIONER GOZZI: Yes.

MR EDWARDS: And I think that's made clear by the first line

where it says, that they're recalled to work overtime. And it's in the overtime that this provision has been incorporated as well, commissioner.

COMMISSIONER GOZZI: Right. Yes, I'm just conscious - I'm trying to bring to mind something that Commissioner Watling determined in the hospitals area just in the last few days in respect of these particular arrangements.

MR EDWARDS: You have me at a disadvantage, commissioner. You've obviously done some reading that I haven't.

COMMISSIONER GOZZI: Alright, so -

MR EDWARDS: I think we've put on the transcript quite clearly what is intended. If - if on balance the commission determines that the words there don't precisely provide what is intended then I'm quite happy to modify the words to make sure that our intentions are put into the award.

COMMISSIONER GOZZI: So if somebody is called back to work overtime outside the ordinary hours they'll be for a minimum of 4 hours at the appropriate overtime rate which contemplates time and a half and double time doesn't it?

MR EDWARDS: Yes.

COMMISSIONER GOZZI: So essentially, is time and a half the first 2 hours now in that award.

MR EDWARDS: Time and a half for the first 2 hours and -

COMMISSIONER GOZZI: So that's 3 hours and then 2 hours at double time which is four - so you get 7 hours pay.

MR EDWARDS: Yes - for a minimum of 4 hours of work.

COMMISSIONER GOZZI: Yes - if you work 4 hours. If you worked anything less you just get the overtime whatever - if you worked 2 hours you get 2 hours at time and a half.

MR EDWARDS: And two at double - no, you get paid the minimum of 4 hours -

COMMISSIONER GOZZI: Yes, and -

MR EDWARDS: - even if you don't stay for the full 4 hours.

COMMISSIONER GOZZI: Yes, so it's 7 hours irrespective?

MR EDWARDS: Yes - correct. So even if it's a 5 minute call-out then it costs 7 hours pay. Good work if you can get it.

COMMISSIONER GOZZI: Yes, what's the award say at the moment?

MR EDWARDS: At the moment the award prescribes that for a -

COMMISSIONER GOZZI: Thirty five -

MR EDWARDS: Clause 35 - it's on page - I've lost it - now I've got stuck in parental leave - page 44 of the consolidated copy of the award.

COMMISSIONER GOZZI: Six of '93.

MR EDWARDS: Six of '93.

COMMISSIONER GOZZI: Page 44.

MR EDWARDS: Yes, it's subclause (h)(i). At the moment the recall there is for 1 hour and I think I'd have to say that employers in this industry have probably been treated fairly kindly to have had a 1 hour call out provision for maintenance employees for as long as they have and I'd be bold enough to suggest the reason why that has been so, is that, particularly at Killafaddy in years gone by, the maintenance employees were members of another union and had an agreement with the employer on these sorts of questions and what this really does is catch up to that position so far the people now employed there are members of Mr Swallow's union.

COMMISSIONER GOZZI: So that's now?

MR EDWARDS: Yes it is. It's also consistent with an agreement which exists at the Longford abattoir, commissioner, so the cost impost of - of this change will be negligible in the extreme.

COMMISSIONER GOZZI: So agreement at Longford?

MR EDWARDS: yes.

COMMISSIONER GOZZI: And what applies to -

MR EDWARDS: And what has historically applied at Killafaddy - or I should say Blue Ribbon rather Killafaddy probably, sir.

COMMISSIONER GOZZI: Yes. Yes. Alright, thanks Mr Edwards. Right, so that's 35(h).

MR EDWARDS: What I've done is taken maintenance employees out of (h)(i) and put them in their own separate (h)(ii) with all other employees being (h)(iii).

COMMISSIONER GOZZI: Right, okay.

MR EDWARDS: The next variation incorporated in TCCI.1, goes to a new subclause, (k), which says that an employee required

to hold himself on stand-by for a recall to work shall be supplied by the employer with a pager or mobile telephone.

COMMISSIONER GOZZI: Right.

MR EDWARDS: A fairly commonsense approach and consistent with existing custom at Longford and probably just formalising an informal arrangement that's existed at Killafaddy too.

COMMISSIONER GOZZI: Mm.

MR EDWARDS: And in variation No.4, we seek the deletion of the amount of 19 cents appearing in subclause (i) of clause 35 and substituting in lieu of that the amount of 38 cents.

COMMISSIONER GOZZI: Right.

MR EDWARDS: Now that applies to the per kilometre after transport and is well within the range normally ascribed to - to that payment. As Mr Swallow has taken the commission through, I think, in respect of this application, that matter hasn't been varied for at least as long as the Tasmanian Industrial Commission has been in situ and from my knowledge it goes back to at least prior to the 1975 act, so we're looking at variation last made it would seem under the Wages Board Act of 1920. Regrettably my records aren't sufficient to go back too far into that era. My memory takes me back to '74 but no further. So in my opinion the amount of increase that is encompassed by this variation is not unreasonable in all of the circumstances, and whilst I can't ascribe to it a consumer price index value I think it would be within the normal parameters and we would submit that it would be therefore in keeping with the wage fixing principles and would do no violence to the public interest test of the - of the act. And we'd ask that the Abattoirs Award be varied in the manner shown in TCCI.1.

We would also ask that the Meat Trades Award be varied in similar vein. I don't have the clause numbers at my fingertips but I will undertake to provide to the commission a copy of the draft order but done specifically for the Meat Trades Award and have that to the commission as soon as I possibly can with a copy to Mr Swallow of course.

COMMISSIONER GOZZI: That's very good, Mr Edwards.

MR EDWARDS: If it please the commission.

COMMISSIONER GOZZI: What operative date?

MR EDWARDS: Sorry?

COMMISSIONER GOZZI: What operative date?

MR EDWARDS: Oh the first pay period to commence on or after today.

COMMISSIONER GOZZI: The first full - after the date of decision.

MR EDWARDS: The date of decision would be fine, commissioner -

COMMISSIONER GOZZI: Okay.

MR EDWARDS: - to comply with the act - yes.

COMMISSIONER GOZZI: Thank you. Very good. Mr Swallow?

MR SWALLOW: Nothing much further to add, Mr Commissioner, only to say that Mr Edwards has outlined the position very clear and that's the point that's been agreed to and I thank you for putting up with us.

COMMISSIONER GOZZI: Yes. Thank you, Mr Swallow. No, it's been a pleasure, I'm sure.

MR EDWARDS: For two of us this is our last meeting just hearings.

COMMISSIONER GOZZI: Yes, that's right. Well look, I'll endorse those variations as put forward. I'll look forward to getting the draft order from you on respect of the meat trades, Mr Edwards, and I'd like to thank you all for your cooperation and I'll hand all of the files now over to Mr Commissioner Watling. I'll see you a bit later. Thank you.

HEARING CONCLUDED