



TASMANIAN INDUSTRIAL COMMISSION

CITATION: Rick Shegog v Minister administering the State Service Act 2000/Department of Health - Ambulance Tasmania [2026] TASIC 56

PARTIES: Rick Shegog (Applicant)

Minister administering the State Service Act 2000 – Ambulance Tasmania (Respondent)

SUBJECT: Industrial Relations Act 1984, s 29(1A) application for hearing of an industrial dispute

FILE NO: T15269 of 2025

HEARING DATE(S): 19 August 2026, 16 September 2026

DATE REASONS ISSUED: 30 September 2026

COMMISSIONER: Commissioner T J Abey

CATCHWORDS: Preliminary decision – admissibility of certain evidence not relied on at time of termination – Alleged conduct which pre-dates State employment – relevance to Code of Conduct – condonation

REPRESENTATION:

Oliver Robinson for Minister administering the *State Service Act 2000*

Craig Green for the Applicant

RICK SHEGOG V MINISTER ADMINISTERING THE STATE SERVICE ACT 2000/DEPARTMENT OF HEALTH – AMBULANCE TASMANIA [2026] TASIC 56

REASONS FOR DECISION

HOBART, 30 September 2026

[1] This is an application lodged pursuant to s 29(1A) of the *Industrial Relations Act 1984*. (the Act)

[2] The Applicant was dismissed on 30 September 2025 following an investigation pursuant to Employment Direction No.5 (ED5). The Secretary found that there had been breaches of the Code of Conduct (Code).

[3] The Applicant commenced employment with the State Service in February 2008. At the time of termination, the Applicant was employed in the position of Operations Manager with Ambulance Tasmania. On 2 September 2022 the Applicant was suspended following receipt of allegations relating to alleged misconduct. The suspension remained in place until the time of termination.

[4] The Respondent has foreshadowed an intention to introduce additional evidence relating to alleged misconduct, the details of which, it is contended, was not known to the Secretary at the time of termination. This is a Preliminary Decision dealing only with the admissibility of such evidence.

[5] A hearing was convened on 19 August 2026 and 16 September 2026. Evidence was taken from the following witnesses:

- Matthew Wilson, Manager - Employee Relations, Department of Health
- Debbie Crespan, Director Workplace Relations, Department of Health
- Dale Webster, Secretary of the Department of Health.

Nature of the Proposed Evidence

[6] The Stewart Allegations.
These allegations relate to alleged conduct which pre-dated the Applicant's employment with the State. There is a connection between these allegations and a Writ and Statement of Claim served on the State in March 2024.

[7] The Tasmania Police Conduct.
This alleged conduct also pre-dated the Applicant's employment with the State and evidently led to the Applicant's termination from Tasmania Police (TasPol).

[8] The Applicant's alleged failure to disclose the alleged TasPol conduct when commencing employment with the State in 2006.

The Legislative Framework

[9] The relevant provisions in the Act include the following:

S 20. Commission to act according to equity and good conscience

(1) In the exercise of its jurisdiction under this Act, the Commission –

(a) shall act according to equity, good conscience, and the merits of the case without regard to technicalities or legal forms;

...

(c) is not bound by any rules of evidence, but may inform itself on any matter in such a way as it thinks just; and

...

(3) In the exercise of its jurisdiction under this Act, the Commission is not restricted to the specific claim made or to the subject-matter of the claim.

S 30 Criteria applying to disputes relating to termination of employment

...

(2) In considering an application in respect of termination of employment, the Commission must ensure that fair consideration is accorded to both the employer and employee concerned and that all of the circumstances of the case are fully taken into account.

...

The Authorities

[10] At one level this preliminary question relates to the level of the Respondent's knowledge of this alleged prior conduct at the time of termination.

[11] The relevant authorities include:

In *Carter v The Dennis Family Corporation* [2010] VSC 406, Habersberger J of the Supreme Court of Victoria outlined the legal principle as follows:

122. In *Phillips v Foxall* (1872) LR 7 QB 666), Blackburn J stated:

Now the law gives the master the right to terminate the employment of a service on his discovering that the servant is guilty of fraud. He is not bound to dismiss him, and if he elects, after knowledge of the fraud, to continue him in service, he cannot at any subsequent time dismiss him on account of that which he has waived or condoned. This right the master may use for his own protection.

123. A more recent statement of the principle is to be found in the judgment of Gillard J in *Rankin*. His Honour stated:

An employer who has full knowledge of the misconduct of an employee, and who makes a decision to continue to employ the employee, cannot at a later date, unless of course other facts come to his knowledge, dismiss him summarily on the basis of the employee's known conduct. It is said that the employer has waived his right to dismiss the employee summarily and thereby condones the misconduct. ([2001] VSC 150; (2001) 107 IR 117, [352]).

[12] And later, in the same case, his Honour said:¹

¹ *Rankin v Marine Power International Pty Ltd* [2001] VSC 150; (2001) 107 IR 117, [354].

It is clear that no such waiver, condonation or election can take place until the employer has full knowledge of the misconduct.

[13] In *Tra v Prodigy Holdings Pty Limited*² Deputy President Gostencnik applied the common law principle of condonation and waiver. His Honour said:

[79] At common law, an employer is not entitled to summarily dismiss an employee for an earlier instance of employee misconduct if the employer with full knowledge of that misconduct had decided to retain the employee in employment. In such cases the condoning employer is taken to have waived the right to summarily dismiss the employee – in shorthand, the principle is often referred to as condonation and waiver. But an employer may take such conduct into account in deciding whether further misconduct by an employee justifies summary dismissal.

The Stewart Allegations

[14] The evidence of Mr Webster, who has held the role of Secretary, either as acting or substantively since April 2024, is clear. He said:³

Having considered the content of two investigation reports and all relevant information pertaining to those allegations I concluded that Mr. Shegog had breached the Code of Conduct and I determined that his employment with the Department should be terminated effective from 30 September 2025 (DC Attachment 28). My decision to terminate Mr. Shegog's employment was based solely on the allegations set out in the letter dated 21 August 2025 (DC Attachment 26).

[15] Further, Mr Webster states:⁴

My knowledge of the police investigation and the civil claim submitted against the State and Mr Shegog all post-dates my decision to terminate Mr Shegog's employment on 30 September 2025.

[16] The evidence of Mr Wilson can be summarised as follows:

[17] He was first contacted By TasPol in September 2023. He was told of the broad nature of an investigation concerning allegations against Mr Shegog when he was an employee of TasPol, but not specific detail.

[18] On 22 December 2023 Mr Wilson was provided with correspondence from the Commissioner of Police to the then Secretary of Health, Ms Morgan -Wicks (Adams letter). In part the letter reads:

I can advise that:

Mr Shegog was employed by Tasmania Police from 31 August 1987 to 3 May 2004.

He was a sergeant at the time of termination.

His employment was terminated as a result of a charge of unlawfully setting fire to property and causing damage.

These charges were subject to a Supreme Court trial and Mr Shegog was found not guilty in 2006.

² *Tra v Prodigy Holding Pty Ltd* [2023] FWC 1514.

³ Witness statement of Dale Webster dated 4 August 2026, paragraph 10.

⁴ Witness statement of Dale Webster dated 4 August 2026, paragraph 26.

[19] On 13 February 2024 Mr Wilson received further advice from TasPol on an “in confidence” basis. This included advice that the comments were not for disclosure as any disclosure which may alert Mr Shegog may have a detrimental impact on the final phase of Police activity.

[20] On 20 March Mr Wilson received confidential advice from TasPol that a writ and statement of claim had been served on the State but not yet served on Mr Shegog.

[21] Mr Wilson said that he regularly updated Mr Gregory, Associate Secretary, who was responsible for current ED5 Investigations. They agreed that there was insufficient information for the Department to conduct its own investigation into the Stewart allegations. Further, Mr Wilson has no recollection of briefing Mr Webster.

[22] On 30 May 2024 TasPol advised that investigators had spoken with Mr Shegog and the covert phase of the investigation had come to an end. Further advice was received on 24 July 2025 to the effect that Mr Shegog would not be charged.

[23] Mr Wilson states that from the initial date of contact from Mr Joel (TasPol) he would have had between five and eight phone calls in which he sought an update as to criminal investigations. He said Mr Joel did not provide specific details of the investigation.

[24] Mr Wilson’s evidence is:⁵

39. Ultimately, the Employee Relations team progressed recommendations to the Secretary to consider terminating Mr Shegog’s employment on the basis of breaches of the Code of Conduct substantiated through multiple iterations of allegations which had been investigated.

40. Mr Shegog’s alleged conduct which related to the criminal investigation did not form part of the consideration put to the Secretary but rather Employee Relations team considered the conduct substantiated throughout the ED5 investigation to form a reasonable basis for the Secretary to consider terminating Mr Shegog’s employment.

Conclusion as to the Stewart Allegations

[25] I readily accept that Mr Webster had no knowledge of the Stewart allegations and the related writ until after the date of the Applicant’s termination. But that is not the point. It is quite unrealistic to expect that the Secretary, as the ultimate decision maker, also manages the ED5 process on a day-to-day basis. The Secretary, quite rightly, relies on the advice and information provided (or not provided) by senior management, generally from the Human Resources area. This is precisely what occurred in this case. In my view it is the information held by the Department as a whole, rather than individuals, which is the critical factor.

[26] In this case, the Department, through Mr Wilson, knew of the TasPol investigation from September 2023. Mr Wilson was regularly updated by TasPol, and in turn conversed with Mr Gregory as and when appropriate. I accept that the information provided by TasPol was broad in nature and lacked the specificity necessary for the Department to proceed, without a further investigation in its own right.

[27] It is of course entirely proper for an ED5 investigation to proceed in parallel with a Police investigation, given the different standard of proof required. Guidelines to this end are provided.

⁵ Witness Statement of Matthew Wilson dated 5 August 2026 paragraphs 39 and 40.

[28] Notwithstanding, I readily accept that it would have been impracticable for an ED5 Investigation to be initiated during the covert phase of the Police investigation. However, that came to end in May 2024 when TasPol advised the covert phase of the investigation was at an end.

[29] From that point on the Respondent was free to embark on whatever course of investigative action it chose. The reality is that the Respondent chose to do nothing. This is not a criticism, simply a statement of fact. This is underlined by Mr Wilson's evidence to the extent that the Employee Relations team progressed recommendations to the Secretary "to consider terminating Mr Shegog's employment on the basis of breaches of the Code of Conduct..." and that Mr Shegog's alleged conduct which related to the criminal investigation did not form part of the consideration.

[30] I fall short of a conclusion that the Respondent condoned the alleged conduct. In my view the facts in this case can be distinguished from the authorities referred to. In the latter cases, the judgements were dealing with known facts or convictions. In the instant case we are dealing, at its highest, with allegations of conduct over twenty years ago, which have in recent times been subject to rigorous Police investigation and a decision not to proceed to charges being laid. The notion of condonation, one way or the other, does not sit comfortably with the facts of the instant case.

[31] There are other factors which in my view are of greater importance.

[32] The allegations relate to conduct more than 20 years ago which pre-date the Applicant's employment with the State. The Commission has no jurisdiction to hear and make judgement on the allegations. They are not proven and, so far as I know, have not been before any court or competent tribunal. How then is it reasonable to ask the Commission to listen to unproven allegations which it cannot make findings on yet somehow take them into account. This does not. In my view, sit comfortably with s 30(2) of the Act.

[33] There is one further consideration. The Code is found at s 9 of the State Service Act 2000 (SSA). In every subsection there is reference to "an employee", meaning a State Service employee. At the time of the alleged conduct the Applicant was not a State Service employee. It follows that the allegations, even if proven (which they are not), could not be found to be a breach of the Code. A breach of the Code is the only relevant ground on which a State Servant can be terminated. (s 44 of SSA). This much I believe is conceded by the Respondent.⁶⁶

[34] I conclude that evidence relating to the Stewart allegation will not be admitted into the substantive hearing.

The Police Conduct

[35] The Respondent submits that the Tasmania Police Conduct, and the failure to disclose the Tasmania Police Conduct upon commencement of employment, was not known to the Department at all prior to termination.

[36] I do not accept this contention. The Adams letter of 21 December 2023 states:

I can advise that:

Mr Shegog was employed by Tasmania Police from 31 August 1987 to 3 May 2004.

He was a sergeant at the time of termination.

⁶⁶ Respondent's submissions paragraph 50

His employment was terminated as a result of a charge of unlawfully setting fire to property and causing damage.

These charges were subject to a Supreme Court trial and Mr Shegog was found not guilty in 2006.

[37] Clearly the Department had been advised at Department Secretary level, that the Applicant had been employed by TasPol, had been terminated as a result of a charge, and found not guilty of the charge by the Supreme Court.

[38] On receipt of this Advice, the Respondent had an unencumbered ability to take whatever action it considered appropriate. It seems that it took no action. This clearly falls into the category of condonation. Hence, I will not allow further evidence on this aspect of the Tasmania Police Conduct.

Failure to Disclose

[39] There is a further aspect relating to the Tasmania Police Conduct which relates to an alleged failure to disclose the alleged conduct and termination when commencing employment in 2006.

[40] There is no information or evidence available to the Commission relating to this contention. I do however acknowledge that this is an aspect which potentially touches on the Applicant's employment with the State.

[41] Accordingly, I will allow further evidence to be called on this aspect alone.

Directions

The Parties are directed to confer, with recourse to the Commission as necessary, as to the exchange and filing of witness statements, submissions and any other documentation relevant to the substantive hearing scheduled for 19 October 2026.



Tim Abey
Commissioner