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AUSCRIPT

TRANSCRIPT OF PROCEEDINGS

O/N 55589

TASMANIAN INDUSTRIAL COMMISSION

PRESIDENT P. LEARY

T No 12932 of 2007

**TASMANIAN FIREFIGHTING INDUSTRY
EMPLOYEES AWARD**

**Application pursuant to the provisions of
section 23(2)(b) of the Industrial Relations Act 1984
by the United Firefighters Union of Tasmania to make
the above award**

HOBART

10 AM, WEDNESDAY, 30 MAY 2007

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

HEARING COMMENCED

[10.25am]

PN1

MR R. WARWICK: I appear for the United Firefighters Union of Australia (Tasmanian Branch) and also the Tasmanian Firefighters Union.

PN2

MR P. BAKER: I appear on behalf of the Minister Administering the State Service Act. With me today is MS J. FITTON and MS R. PEARCE.

PN3

MR J. EVANS: I am intervening on behalf of the Minister for Justice and Workplace Relations.

PN4

THE PRESIDENT: Thank you. Mr Warwick, will we deal with the award first and the agreement or can we deal with them together? I am easy.

PN5

MR WARWICK: So are we. The Government has prepared some final copies, so I wonder if they might want to table those.

PN6

THE PRESIDENT: The Government are going to do the submissions, are they?

PN7

MR WARWICK: I would simply say that the award and the agreement reflect the current documents that governs members employment. In the Federal jurisdiction, it is our intention to vacate the Federal jurisdiction, hopefully, later today. So the documents tabled have been amended only to conform with certain requirement of the State Commission in respect to formatting certain legislative requirements in relation to discrimination, and so on and so forth, and we would submit that nothing in the proposed award and agreement offend the State wage-fixing principles or, indeed, the processes and procedures of the State Commission.

PN8

THE PRESIDENT: Okay. The documents that have just been tendered, are they the same as the ones that were filed?

PN9

MR BAKER: To a large degree, yes.

PN10

THE PRESIDENT: There were just a couple of things in the ones that were filed that I needed to raise.

PN11

MR BAKER: Then perhaps if you raise them, perhaps, hopefully, I - - -

PN12

THE PRESIDENT: And you can tell me whether they have been amended or not.

PN13

MR BAKER: Yes.

PN14

THE PRESIDENT: In both the agreement and the award, the disputes settlement procedure refers disputes to the Federal Commission?

PN15

MR BAKER: That has been amended.

PN16

THE PRESIDENT: Excellent. The other one is a reference to an amendment required to the Long-Service Leave Act, I think it was. I presume that will be undertaken by somebody?

PN17

MR BAKER: Actually, I believe we actually left it in there just for the sake of completeness in the document, but that actually has occurred.

PN18

THE PRESIDENT: Has it? Okay, that is fine. All right, so I don't have to worry about that. So the documents that you have tendered address the one point that I have raised. Is there anything else that I need to be aware of, other than formatting?

PN19

MR BAKER: Yes, President. There is to be - we actually have included in the document a revised personal leave and carers leave and bereavement leave provisions. They make reference to casual employees - and there are no casual employees employed within the Fire Service; so it will be our intention to provide to the Commission and to the parties a revised document that excludes the references to casual employees in those clauses.

PN20

THE PRESIDENT: Okay. So, other than that, the awards reflect what was in the Federal award and agreement including prohibited matters, I would presume.

PN21

MR WARWICK: It would seem so.

PN22

THE PRESIDENT: Isn't that nice?

PN23

MR WARWICK: Indeed.

PN24

THE PRESIDENT: It is almost like the dinosaur fighting back.

PN25

MR WARWICK: Indeed. I should also note to the Commission that we have included four levels of newly-named classifications: community fire safety officers, levels 1 to 4 that appear on page 10 and 11. Those classifications have never appeared in the award before although, by agreement, we have decided to put them in. The people who do that work that you would say was comprehended by the award, they are the existing rates for those people who are currently employed under other State Government awards, so they have been brought in, but their entrance into the award does not offend the first awards and extensions to existing awards principle.

PN26

THE PRESIDENT: So which other award would they be found it? What sort of people are they?

PN27

MR WARWICK: Officers of the State Fire Commission, if I am not mistaken.

PN28

THE PRESIDENT: Are they a forestry-type - no?

PN29

MR BAKER: No, they are actually held against rates of pay that are aligned to the Administrative and Clerical Employees Award, and so when the new award was made, we decided between us that this was an opportunity to clean it up; so we have included them in here. As Mr Warwick has indicated, there is actually no increase in wages.

PN30

THE PRESIDENT: So they are already classifications with the attachments rates of pay that already apply in other awards.

PN31

MR BAKER: Yes.

PN32

MR WARWICK: Just as a very short history. At points of time there have been difficulties in getting firefighters to do these sorts of day-work jobs, so the Fire Services employed people from outside. But we would say, from our point of view, that it is traditional firefighters work. So I guess that is the explanation of it.

PN33

THE PRESIDENT: All right, okay, so it is pick up that sort of particular work.

PN34

MR WARWICK: I should say as well that at some stage I think we will be asking the Commission to consider whether those rates of pay are, in fact, the ones that should apply, but that will be down the track.

PN35

THE PRESIDENT: All right. I take it that the application has the support of the membership?

PN36

MR WARWICK: I can happily advise you, particularly also to satisfy the requirements of the Federal Act, we undertook a petition of members, which I can happily table, if you wish to see that?

PN37

THE PRESIDENT: All right, yes, and I will take a copy because it will also need to go into the Federal applications.

PN38

MR WARWICK: Yes. I might point out that it does not reflect the majority view of the members. We simply accumulated names on the list of petitions until we knew we had a valid majority - and that can be checked against our latest operational report on the Federal Commission website as to total numbers.

PN39

THE PRESIDENT: Okay, that is fine. Thank you. Anyone want to put anything else in respect to these applications?

PN40

MR BAKER: No, just that we concur with the application and I note the comments by Mr Warwick in relation to the classification levels in relation to the Community Fire Service officers. It has been the subject of some heated discussion between us and, as I indicated, Mr Warwick is quite free to bring the matter here any time he chooses.

PN41

THE PRESIDENT: And I am sure he will do that. Did you want to put anything, Mr Evans?

PN42

MR EVANS: Not in relation to the subject matter of the award, President. I simply wanted to make some comments in relation to the parties agreeing to transfer this award from the jurisdiction of work choices back to the State.

PN43

THE PRESIDENT: Yes, welcome back to the fold.

PN44

MR EVANS: I can simply leave it as succinctly as that, yes. But would you like me to proceed with that now?

PN45

THE PRESIDENT: It might be an opportune time, yes.

PN46

MR EVANS: Thank you. President, the Tasmanian Government has been trying to persuade the United Firefighters Union of Australia (Tasmanian Branch) to - - -

PN47

THE PRESIDENT: Not only t he Government, as I understand it.

PN48

MR EVANS: Well, Madam President, I didn't want to make reference to several conversations that we have both been party to in trying to do exactly that; it might be seen to be inappropriate - but you are quite right. Yes, we have long been trying to persuade the UFUA to return to Tasmanian jurisdiction and, indeed, long before work choices became a name that we re now familiar with, indeed - - - .

PN49

THE PRESIDENT: But not allowed to use.

PN50

MR EVANS: Well, apparently not. Not now. As a matter of interest, this morning, that hit my desk, the bill introduced by the Federal Government in relation to introducing a fairness test into the legislation which consisted of 80 pages accompanied by 60-odd pages of explanatory memorandum, which I haven't got anywhere near through just yet. But, as I said, we have been trying to prevail on the UFUA for quite some time to, as you put it, return to the fold.

PN51

Indeed, my predecessor, Clive Willingham, was a strong and fervent advocate for bringing all major employee groups back to or into interstate jurisdiction and if he were here today, he would be extremely pleased, as am I, and, indeed, as is the Minister. Mr Warwick and the Administer Administering the State Service Act's representative are to be congratulated for bringing this to fruition.

PN52

Madam President, we joke about the Federal system, if that what it is; no one can be certain as to exactly what shape industrials relations in the country will be in the not too distant future and we may very well all find ourselves in some form of national system. Be that as it may, we can only deal with the here and the now and there is absolutely no doubt that at this point in time this Commission provides the most balanced and fair industrial jurisdiction in the country.

PN53

This jurisdiction most certainly serves the interests of both the UFUA, its members and the employer, far better than the current Federal system. We can only hope that any future national industrial relations system delivers what the Tasmanian industrial relations system has been delivering from inception, and that is an industrial relations system that is second to none. The Tasmanian Government supports this application in the strongest possible terms and, once again, I commend the parties for bringing this to this state of play. If the Commission pleases.

PN54

THE PRESIDENT: Thank you very much. Did you want to add anything else, Mr Warwick?

PN55

MR WARWICK: Thank you. Perhaps the Minister and the Tasmanian Government may be assisted by understanding that we are nationally a very small organisation of not more than 11,000 members. Gaining Federal registration for us was a very difficult process and one that went all the way to the High Court and denied us for decades, and vacating the Federal system is not something that we are doing lightly, but we have reached the point of understanding that there is no choice. Indeed if we remain in the Federal system, the net result that we may even, in fact, lose our legal identity.

PN56

THE PRESIDENT: That is a possibility, yes.

PN57

MR WARWICK: So, for all of those reasons, we ask the Commission to embrace us back into the fold and I thank Mr Evans for his kind words.

PN58

THE PRESIDENT: Thank you. Well, we certainly welcome you back and it is with some pleasure, I guess, that I can approve both the Tasmanian Firefighting Industry Employees Award and the Tasmania Fire Service Employees Enterprise Bargaining Agreement 2007. Subject to further checking but, I take it, from Mr Baker, that they should now be in the correct form, they will be approved and take effect from the first pay period on or after today.

ADJOURNED INDEFINITELY

[10.35am]