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## **TRANSCRIPT OF PROCEEDINGS**

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O/N 9571

### **TASMANIAN INDUSTRIAL COMMISSION**

**COMMISSIONER T.J. ABEY**

**T No 10930 of 2003**

### **SECURITY INDUSTRY AWARD**

**Application pursuant to the provisions of  
section 23(2)(b) of the Industrial Relations Act 1984  
by the Australian Liquor, Hospitality and Miscellaneous  
Workers Union - Tasmania Branch to vary the above award  
re: to insert a new aviation safety allowance.**

**HOBART**

**2.40 PM, FRIDAY, 18 JULY 2003**

**HEARING COMMENCED**

**[2.40pm]**

PN1

MR P. TULLGREN: I appear for the Australian Liquor and Hospitality and Miscellaneous Workers Union.

PN2

MR P. MAZENGARB: I represent the Tasmanian Chamber of Commerce and Industry Limited.

PN3

THE COMMISSIONER: Thank you, Mr Mazengarb. Yes, Mr Tullgren?

PN4

MR TULLGREN: If the Commission please, the application before the Commission today is for the insertion of an allowance entitled the Aviation Security Allowance of 97 cents into the Security Industry Award. The application was made on 30 June and there have been discussions between myself and my friend about this and he has advised me of the position his client adopts which he will address the Commission on. The application seeks that the allowance applies to all aviation security employed at Hobart and Launceston airports. A copy of the draft order was distributed as an attachment to the application and I don't seek to tender it but to refer to it.

PN5

THE COMMISSIONER: Yes.

PN6

MR TULLGREN: I might also at this stage indicate, Commissioner, that as a result of discussions we have prepared a witness statement for Michelle Tedeski. A copy of that was provided to my friend and to the Commission earlier this week. It has been pointed out to me that at the end of the witness statement the date - it refers to July 2002. That is a genuine typographical error and it should be 2003.

PN7

THE COMMISSIONER: Yes.

PN8

MR TULLGREN: I have been advised by my friend that he wasn't seeking to cross-examine in relation to the witness which I referred to, I think, in the correspondence that was sent. On that basis we would seek formally that the witness statement be admitted into the proceedings.

PN9

THE COMMISSIONER: Yes, we will do that. I will mark the statement A1.

**EXHIBIT #A1 WITNESS STATEMENT OF MICHELLE TEDESKI**

PN10

MR TULLGREN: Commissioner, the application is made under principle 9 of the extant State Wage Principles and principle 9 deals with work value. The application is made on the basis that there has been a significant addition to the work requirements of aviation security guards in Tasmania. More recently there have been significant changes to the work value of all aviation security officers at Hobart and Launceston airports as a consequence of the events of 11 September 2001 and the collapse of Ansett Airlines on 13 September 2001. Commissioner, we submit that there is merit in the application and significant work value changes have occurred post September 11.

PN11

The application - there was a previous application made under the work value principles for the insertion at the level 2 classification in the award for all officers using x-ray screening equipment and hand held scanners but that was not for all aviation security officers. There was no opposition to that application and it came - you granted the application, or the union's application, operative from the first pay period on or after 16 March 2002. In relation to that decision the union does not propose to alter the classification structure for security employees engaged in the duties of x-ray screening and hand held scanners. The application this afternoon is specific to the work of aviation security officers and has not been considered before.

PN12

A fundamental aspect to the LHMU claim is that there have been significant changes to the work skill and responsibility required of security officers in the aviation industry at both Hobart and Launceston airports. The witness statement of Michelle Tedeski, who has been employed at Launceston Airport full time for 11 years as a security officer - the witness statement evidence goes to the changes for aviation security officers post September 11, Ansett and the attacks in Bali. The change of the work of aviation security officers has been varied and very quick we say. Significant societal expectations have impacted on the work of aviation security employees post 11 September 2001 and following the recent Bali bombings and just to take you to a couple of issues, particularly the issue of qualifications.

PN13

Aviation security officers are now expected to undertake more thorough training than that proposed for other security officers. The qualification requirements for security officers at airports is set out in the Air Navigation Regulations made by the Commonwealth Government. Under the current regulations aviation security officers must hold nationally consistent accreditations such as the Certificate 2 in guarding with special application to aviation screening and must be licensed as a security officer under the relevant state legislation. The screening standard implemented through nationally consistent security screening training was put in place in November 2002.

PN14

Aviation security officers must also be provided with a security identification which is referred to by the acronym ASIC and it is an identification card issued by the airport operator which allows the security officers to prevent unauthorised people from entering a security restricted area in an airport. These ASICs, as they

are known, may only be issued to individuals who have undergone a background check on prior convictions and also meet citizenship requirements. In addition to this aviation security officers have undergone additional training sessions of specialised training and screening before they are able to work as screeners on their own. The implementation of the passenger screening arrangements are both inspected and tested by officers of the Aviation Security Policy Branch of the Federal department.

PN15

I might indicate that Ms Tedeski addresses the qualifications that she holds at paragraph 6 and they include the qualifications that I have referred to. Also the witness statement at paragraph 20 refers to tests conducted by the Department of Transport to test the efficacy of the training and screening ability of the employees and also paragraph 21, which deals with additional tests that are required by Chubb who is the current employer and also by Qantas their principal customer. We say that community and government expectations of aviation security officers have certainly increased post September 11. There is now a much higher level of scrutiny on these officers. The LHMU application seeks to recognise the higher level of work undertaken.

PN16

Some of these changes include the significant increase in the value of the work of aviation security guards following September 11 and the increased work load and changes to their work. Now, at this stage, Commissioner, I would seek to tender a copy of a decision of the Australian Industrial Relations Commission.

PN17

THE COMMISSIONER: Thank you.

PN18

MR TULLGREN: This is a decision made by Commissioner Holmes in Melbourne on 11 June 2002, in print PR918644. This decision relates to the initial application for the insertion of this allowance in security awards in relation to the security award in Victoria. The application was hotly contested by the employers, principally Chubb, and Commissioner Holmes - while this decision deals with a significant number of matters in relation to Tullamarine Airport, they are matters that significantly and generally go to aviation security generally. In the decision Commissioner Holmes refers to changed work requirements which have arisen as a result of legislative change in terms of aviation regulations, increased expectations on the part of both airport clients and public with respect to aviation security, significant changes to the working environment of airport security officers and the increasing work load of not only screening officers but other airport security officers as well.

PN19

These changes include the requirement to detect smaller items that are less than 100 millimetres in length within 10 seconds, the confiscation of all of the smaller items such as scissors, tweezers and nail clippers and I would indicate that these matters are addressed at paragraph 8 of Ms Tedeski's witness statement. The change in policy following September 11 has also increased the work load, stresses and pressure for officers. There is also now a requirement to manually check luggage, screening points for spray cans and to determine whether they are

for personal use and if they are not they are to be confiscated. I might indicate that - this is addressed at paragraph 12 of the witness statement.

PN20

To give you another example, at paragraph 9 of the witness statement, Ms Tedeski says that now all laptop computers that are carried through have to be searched and that is they have to be removed from their case and they have to be screened separately from the carry case so that the security officer has to determine whether any item has been removed or added to the actual internal operation of the laptop computer. there is a view that laptop computers form a valuable and convenient vehicle for carrying particular types of explosives and weapons on to planes. Now, these sorts of checks were never done before. I might also indicate that the level of change includes now that since September 11, and this is addressed in paragraph 16, that anyone who wears a prosthesis, that is an artificial arm or leg, is now required to have that artificial arm or leg removed or searched as part of the process.

PN21

Now, that in itself has some logistical difficulties but this is the level of expectation - I am not necessarily sure it is the level of expectation if someone has, for instance, an artificial leg. However there is this requirement and all of this is significantly since September 11. This has all led to a massive increase in the number and types of confiscations by aviation officers. There has also been a significant increase in the number of frustrated fliers and visitors to the airport who are not familiar with the new system. Officers are regularly working under increased pressure and stress because of this and we say that all of this is generally and specifically addressed in Ms Tedeski's witness statement.

PN22

We have already tendered the decision of Commissioner Holmes. While this Commission must of course make up its own mind on the facts, we say that Commissioner Holmes' decision is quite a comprehensive analysis of a whole variety of issues, some of which are not totally relevant at Hobart and Launceston airports because of the size, however the general principles that he discusses and a lot of the specific issues are relevant. That was a work value application and in that the Commissioner awarded 97 cents per hour as the increase. We also say that a secondary and general authority supporting the LHMU case is the decision of Commissioner Taylor in what is known as the Vehicle Industry Award case in 1953 which is found at volume 124 of the Commonwealth Arbitration Reports commencing at page 295.

PN23

This decision, which is the seminal decision, identifies a range of factors that support work value claims. I don't seek to tender the decision but would direct the Commission to that. The same allowance that the Commission is being invited to insert in this award has already been inserted in a number of awards. They include the New South Wales Security Award, again a decision of Commissioner Holmes; the Security Officers Award in South Australia where Commissioner Lesses varied the award on 7 August 2002. The Security Officers Award, the state award in Western Australia has also been varied and I am instructed that the award was varied with effect from 4 July. All of the decisions,

save for the one in Victoria, have been by consent following the Victorian Work Value case.

PN24

We also say that the Commission has power to grant the application under principle 9 of the work value principles and we would invite the Commission to find that the application does comply with the principles and particularly principle 9.1 and 9.2 which deals with effectively allowances. So, Commissioner, save for any questions you might have or any response you might grant me to anything my friend might say, we would make application that the award be varied in terms of the draft order to be effective from the first pay period on or after today's date.

PN25

THE COMMISSIONER: Thank you, Mr Tullgren. Mr Mazengarb?

PN26

MR MAZENGARB: Thank you, Commissioner. Just to advise that the union through their secretary and Mr Tullgren had a meeting with myself on 11 June at which time the union outlined their position relative to the claim that is being heard before you today. The TCCI undertook to canvass its membership who may be affected by the application before you today and that was done on the same day, so I wrote to the members of the Security Industry Award on 11 June asking them for their comments. The only comments that came up were from Chubb Security which as Mr Tullgren indicated through his submission is the principal employer of the employees at the Hobart airport and Launceston airport.

PN27

Chubb indicated through their national manager that they had been fairly well involved in the decision - sorry, in the proceedings before Commissioner Holmes that Mr Tullgren has referred to in relation to the documentation he put before you from the decision of Commissioner Holmes of 11 June 2002. As indicated that was hotly contested to use Mr Tullgren's terminology by both Vecke and Chubb Security and the decision of Commissioner Holmes in that case was to award an allowance of 97 cents for employees engaged in the type of work that has been outlined by Mr Tullgren.

PN28

The instructions from Chubb was as the matter had been contested fairly hotly in the jurisdiction their view was there would be no valid argument that could be run before this jurisdiction to warrant anything that would vary from that decision of Commissioner Holmes. So on that basis and in light of fairly well examining the decision of Commissioner Holmes of 11 June last year the TCCI is in a position we will not oppose the application. We believe that the principles are not being injured in any particular way and with regard to operative date we would indicate our desire that the operative date be from the first full pay period on or after the date of your decision. If that happens to be today, I concur with the submissions of Mr Tullgren if it happens to be some other day in the near future we would prefer it to be from that date so it is not retrospective. If the Commission pleases.

PN29

THE COMMISSIONER: Yes, thank you, Mr Mazengarb. Having heard the parties I can indicate that the application will be granted and the operative date will be from the beginning of the first pay period to commence on or after today. It will of course be necessary to issue a formal decision and that won't be coming out today, but for all intents and purposes my decision on transcript is that the application is granted, operative from beginning of the first pay period on or after today. If there is nothing further for the record, the Commission stands adjourned.

**ADJOURNED INDEFINITELY**

**[3.00pm]**

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LIST OF WITNESSES, EXHIBITS AND MFIs

**EXHIBIT #A1 WITNESS STATEMENT OF MICHELLE TEDESKIPN10**