

COMMISSIONER: I'll take appearances.

**MR C. YOUNG:** YOUNG C., for the CEPU.

COMMISSIONER: Mr Young.

5 **MS J. THOMAS:** JENNY THOMAS appearing for the Tasmanian Chamber of Commerce and Industry, if it pleases.

COMMISSIONER: Ms Thomas. Now Mr Young?

MR YOUNG: If you'd bear with me just a little bit this morning; this will be my first case that I'm putting before the commission.

10 I've got a draft submission here to put before you and I appear on behalf of the CEPU. This matter concerns application to vary the Plumbers Award, Tasmania. The application seeks to vary the award in two respects.

15 Firstly, it seeks to implement the first \$8 per week arbitrated safety net adjustment as provided for in the State Wage Case, July 1996. We seek to adjust the wage rates and work-related allowances in accordance with the first \$8.

Secondly, the application seeks to increase various expense-related allowances contained within the award.

20 I first wish to deal with the first \$8 arbitrated safety net adjustment which we are seeking to apply in accordance with the principles set down in the July 1996 State Wage Case, the relevant principle being principle 7.1.

I want to tender the amended draft order.

25 COMMISSIONER: Mr Young, you're actually seeking to amend your application - change it to this that you've just put forward, is that correct?

MR YOUNG: If the commission wishes, yes.

COMMISSIONER: Yes. Have you any objection to that, Ms Thomas?

30 MR THOMAS: No, but I can see that the draft order will need further amendment which we could deal with off the record, if it pleases.

COMMISSIONER: Yes, all right. We'll wait till Mr Young has finished with his submissions. Yes, Mr Young?

35 MR YOUNG: The draft order has been amended; the nature of the amendment is basically typographical and the correction of some rates.

The amendments follow the discussion with the Chamber of Commerce and Industry. We did fax to TCCI a copy of the amended draft order yesterday since we received some further amendments from the TCCI but time did not permit us to incorporate them in the draft order, those amendments being: page 1, paragraph (a), replace the words 'weekly base rate' in the third line with 'weekly wage rate', and delete the reference to supplementary payment and safety net adjustment.

We agree to this amendment as it is recognised at page 2 of the draft order that the weekly wage rate in subclause (b) includes a supplementary payment and arbitrated safety net.

The second amendment the TCCI proposed is at page 6 of the draft order dealing with apprentice rates. We have included a third column which reflects the total per week rate paid to apprentices.

The TCCI are saying that they prefer not to have this column in the award as it is not currently in the state award.

We included it as we thought it made the reading of the award clearer in respect to the payments made to apprentices. It sets out the weekly rate, thus saving the employer's time in doing the calculation. If the commission thinks that it's not appropriate to include the third column, we will amend the draft order accordingly.

The award before you has been varied to include the \$8 per week arbitrated safety net adjustment pursuant to the State Wage Case decision of 24 December 1993 - T4692 of 1993. As such, in accordance with the principles, we are seeking the application of the first \$8 arbitrated safety net adjustment.

The first \$8 has been applied to the wage rates contained within the award and as such seeks to vary Divisions A and B of clause 8 of the award. In this regard I take the commission to firstly page 2 of the amended draft order, paragraph (b) of Division A - Plumbers Employed On Construction Work - the \$8 arbitrated safety net is identified in a separate column in the wages table.

Secondly, page 7, Division B - Weekly Hire Employees. I refer to paragraph (a) under 1 - sheet metal worker, and paragraph (a) under 2 - plumber, other than engaged on construction work.

COMMISSIONER: Just a minute, where's that on page 7?

MR YOUNG: It should be under paragraph (a) under 2.

COMMISSIONER: That's under page 8 on mine. Sorry, looking at the wrong - it's got page 7 down the bottom and page 8 up the top. Yes, sorry there, Mr Young. Yes, I've got it now.

MR YOUNG: Yes, begging the commissioner's pardon, what's happened is, a number of these copies have been sent through by facsimile -

COMMISSIONER: Yes, I'm reading the fax numbers.

5 MR YOUNG: - so therefore the page numbers. They don't necessarily correspond.

In both sections the \$8 is identified in a separate column in respect of the wages clause. The apprentice rates of pay have also been varied. I refer firstly under Division A, page 6 of the amended draft order. These  
10 amendments arise from the fact that the apprentices rates are based on the weekly wage rate of the registered sanitary plumber and other allowances as specified.

I also refer to the amendments to the apprentices rates at page 8 and 9 of the amended application. These apprentices rates are based on the  
15 weekly wage rate of the employees mentioned in Division B - weekly hire employee sheet metal worker.

The application also seeks to amend the work-related allowances contained within the award. These allowances have been adjusted by 1.9 per cent which reflects the \$8 increase to the base rate and the  
20 supplementary payment of the sanitary plumber classification.

It is our submission that the application for the first \$8 arbitrated safety net adjustment is consistent with the State Wage Case of July 1996. We refer to the first measure contained in principle 7.1.3 which refers to the continued implementation of the award restructuring  
25 program.

In respect to award restructuring to this award, we say that the Plumbers Award, Tasmania, has a nexus with the federal award which is the Plumbing Trades (Southern States) Construction Agreement 1979. That federal award, along with other federal plumbing industry  
30 awards has been the subject of extensive proceedings before the Australian Arbitration Relations Commission in respect to award restructuring over the last seven years.

Without going into an extensive history of the award restructuring in the building and construction industry generally and the Plumbing Awards in particular, one of the reasons for the delay in having the  
35 matter finalised was the relativities that were to apply to below trade classifications in all awards in the building and construction industry.

This matter was subject to two full bench decisions in the federal commission in July 1992 and July 1993. Following these two full  
40 bench decisions, the issue of the classification structure and associated relativities was referred to Deputy President Watson with the exception of the operative date.

The commission subsequently dealt with the matter as it affected the National Building and Construction Industries Award. A decision on the final order from NBCIA was issued by Deputy President Watson in September 1995.

- 5 In respect to the award restructuring for the federal plumbing industries awards, arbitration proceedings were held before Deputy President Watson last Thursday and Friday in Melbourne.

Further written submissions are to be lodged by some employers this week as the matter did not conclude last week.

- 10 There are also some further proceedings set down in June to deal with another issue arising in respect to award restructuring. As such, it is expected that the award restructuring in respect to the federal plumbing industry awards will be concluded within the next month or so.

- 15 Due to the delays that have been experienced in finalising the award restructuring in the Building and Construction Industry Award, the award before the commission has not been restructured at this stage, however, we say that the implementation of the award restructuring is not a precondition to the granting of the first \$8 safety net.

- 20 I now wish to refer to the measures taken or proposed to be taken to facilitate and/or encourage an enterprise bargain such measures that are not a precondition of granting of the first arbitrated Safety Net Adjustment. However, I can indicate to the commission that this union has undertaken various activities aimed at facilitating a better  
25 understanding of the enterprise bargaining process amongst our members. Such activities include conducting meetings of members to discuss enterprise bargaining.

- Also, our application seeks to increase the various expense-related allowances. I refer to the table set out on pages 10 and 11 of the  
30 application. The expense-related allowances we are seeking to increase are, tool allowance, which is clause 49, compensation for damage to tools and clothes, clause 16, distance jobs, camping allowance, weekly and daily rates, subclause (ix)(i)(ii), travel-related allowances - this includes travel kilometres outside of radius, subclause 18(d)(ii). Travel  
35 - use of own vehicle during working hours subclause 18(d)(i).

COMMISSIONER: Mr Young, you don't have to go through those if they're all specified in pages 11 and 12. I presume, or I expect that you and the confederation have compared notes on these matters and if you tell me they're agreed, well, you don't have to tell me any more.

- 40 MR YOUNG: Thank you, commissioner. These expense-related allowances have not been adjusted since 1993. What we seek to do in this application is to adjust the allowances to reflect increases and expenses incurred since 1993 as set out in the relevant tables of the

Australian Bureau of Statistics, the Consumer Price Index and other relevant ABS indices for the period 1993 to 1996.

5 The adjustment we are seeking is in accordance with a longstanding formula for adjusting expense-related allowances in the federal awards of the building and construction industry. This formula is known as the Ludecke formula whereby the movements in expense-related allowances are done on the annual basis according to the agreed formula.

10 To further explain the method of calculation we have used to arrive at the increases, we wish to tender exhibit 2.

COMMISSIONER: I hope you're not going to go over the CPI index with me, Mr Young?

MR YOUNG: No, commissioner.

15 COMMISSIONER: What I mean by that is, again, that's the evidence of the movements, I presume, and if there's agreement on that between you and the chamber, that's sufficient for me. **EXHIBIT 2**. You still might have something to add. Don't let me stop you, Mr Young, but I'm just letting you know how I feel about it.

MR YOUNG: I won't be going through the full exhibit, commissioner.

20 This document sets out the calculations that are used for each of the expense-related allowances and the relevant CPI index was used for each of those allowances.

25 It is based on the calculations that applied to the retrospective allowances of the Plumbing Southern States Construction Agreement 1979. It sets out the calculations for the period 1993-1996.

COMMISSIONER: Yes. Mr Young, you've referred to the Ludecke formula. You've given us the ABS statistics. You didn't give us the Ludecke formula, so we can't really follow it, can we. I'm not particularly concerned.

30 MS THOMAS: Just to facilitate this process, Margaret Maloney from the national office of the CEPU faxed through a document which actually sets out the methodology for calculating this increase. It indicates the old rate, the percentage increase and the new rate. So, I can hand that up. That actually sets out what has been done.

35 COMMISSIONER: The process, yes. **EXHIBIT 3**. Again, Mr Young, I don't require you to go over that in detail, just evidence of how it was done, which helps me understand it a bit more, so long as the parties agree that that exhibit does show that process. That's sufficient for me for today's purposes and as Ms Thomas has kindly given me a look at  
40 that, I'll hand it back to her and if she arranges for a copy to be made

and one for you. As far as I'm concerned, again, that's sufficient for me.

5 Mr Young, you've advised as to how these expense-related allowances have been calculated. You've produced evidence of the Bureau of Statistics, Consumer Price Index relevant publications. We are going to get in exhibit 3, an explanation of the formula of how it was worked out. Is there anything else you wanted to add on that?

10 MR YOUNG: I believe, commissioner, that I have one further exhibit, which would be in regards to variations of the Southern States Construction Agreement 1979 re expense-related allowances.

COMMISSIONER: Yes. **EXHIBIT 4.**

15 Again, Mr Young, this is really evidence of what's happened up until now, isn't it, and up until 18 February, and I presume the rates prescribed in 18 February decision, as shown in exhibit 4, are the ones that you're claiming now. Is that correct?

MR YOUNG: Yes, commissioner.

COMMISSIONER: Yes, all right. Any more you want to add?

MR YOUNG: There is just a little bit more, commissioner.

COMMISSIONER: Yes, go on.

20 MR YOUNG: There are three payments under the state award which we wish to further investigate - the history of the amounts before we seek a further adjustment. These are the first-aid allowance, the leading hand allowance and the tools and equipment allowance. As such, we may seek further amendments at a later date for these allowances.

COMMISSIONER: Are you seeking for them to be increased at the moment?

30 MR YOUNG: Yes, sir, they are but there is some catch-up involved. For example, commissioner, the first-aid allowance, I believe the federal award reflects \$1.61 where after this is varied, I believe it says \$1.47 so there is a fair discrepancy but we have to investigate how and where that discrepancy came about. It is unknown at this stage.

35 COMMISSIONER: Yes, I understand. So, for those three items you're still pursuing today's increases based upon the methods outlined but by so doing, discrepancies occur in these three. In other words, discrepancy between what you are seeking and what the federal award now prescribes and you'll be addressing that at another time?

MR YOUNG: Yes, commissioner.

COMMISSIONER: All right. Thank you.

MR YOUNG: In conclusion, we would submit that the draft order meets with the requirements of the principles of this commission as set out in the State Wage Case of 1997.

5 COMMISSIONER: What about an operative date, Mr Young?

MR YOUNG: We would seek that the operative date would be from the conclusion of today's proceedings, if you found in favour.

COMMISSIONER: From today. We will see what Ms Thomas says about that. Nothing else, Mr Young?

10 MR YOUNG: No, thank you, commissioner.

COMMISSIONER: Ms Thomas, before you tell me what you think about all of that, those corrections, are they able to be done by all of us here together quickly or do you want time to go over them?

15 MS THOMAS: No. I think we should just go off the record briefly just to look at those.

COMMISSIONER: All right. We'll go off the record, thanks.

**OFF RECORD**

**ON RECORD**

COMMISSIONER: Ms Thomas?

20 MS THOMAS: Thank you, Mr Commissioner. I'd just report that we've, on the record, attended to the draft order marked, exhibit 1, have gone through the changes that were made to page 1 and also on page 6, it was agreed that several changes be made there, that the total per week column be deleted, that the heading, base per week, 25 actually be amended to read, weekly wage rate, and the amount of \$239.69 to read \$239.70 and we also went through some typographical errors which appear in the consolidated award at present, which need routine correction, if you like, and the parties have agreed to those.

30 In terms of this matter, Mr Commissioner, this is a consent application. We have had an opportunity to view several versions of the draft order and we were finally able to agree to its content yesterday.

I acknowledge Colin's comments concerning the award restructuring process at the federal level and his comments in relation to enterprise 35 bargaining. I am not sure how many of our members are actually covered by this award but I know in one instance, a recent dispute saw the parties resolve that matter through a registered industrial agreement and I'm certainly aware of another member where they pay

over-award rates. So, to that extent, enterprise bargaining may be limited but it is nonetheless occurring one way or the other.

5 In terms of the adjustment to expense-related allowances, we have been through the documentation provided to us from the CEPU and agree that they comply with the requirements of the Wage Fixing Principles and acknowledge Mr young's comments concerning those three allowances that the CEPU will investigate to see why there may be a discrepancy there between the state and federal award.

10 In terms of the operative date, we would ask that that be the first full pay period to commence on or after today's date.

If it pleases the commission.

COMMISSIONER: Thanks, Ms Thomas. Mr Young, is there anything else you'd like to say?

MR YOUNG: No, commissioner.

15 COMMISSIONER: You appreciate those changes that I mentioned, were all rather irrelevant in relation to today's proceedings as to subject matter?

MR YOUNG: Yes.

COMMISSIONER: And you're not against those?

20 MR YOUNG: No, commissioner.

COMMISSIONER: The operative date, Mr Young, the first full pay period on or after, that's a normal request, which I'll agree to. All right?

MR YOUNG: I agree to it, commissioner.

25 COMMISSIONER: Good. I congratulate the parties on facilitating this application. Obviously, the parties have been waiting a long time to come to this conclusion and I'll do my best to make sure that it's reflected in the award as soon as possible. Thank you. The application is closed.

30 **HEARING CONCLUDED**