



TASMANIAN INDUSTRIAL COMMISSION

CITATION: Jenna Huisman v Minister administering the State Service Act 2000/
Department of Natural Resources and Environment [2026] TASIC 59

PARTIES: Jenna Huisman (Applicant)

Minister administering the State Service Act 2000 – Department of Natural Resources
and Environment (Respondent)

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

FILE NO: T15362 of 2026

HEARING DATE(S): Determine on the papers

DATE REASONS ISSUED: 9 October 2026

COMMISSIONER: Commissioner T J Abey

CATCHWORDS: Alleged unfair termination – constructive dismissal – extension of
time - absence of exceptional circumstances – application denied and application
dismissed -Long Service Leave – claim for pro rata allowance – illness found to be a
major contributing factor – application granted

REPRESENTATION:

Nathan Gautam for the Minister administering the *State Service Act 2000*

Jenna Huisman the Applicant

**JENNA HUISMAN V MINISTER ADMINISTERING THE STATE SERVICE ACT 2000/
DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENT [2026] TASIC 59**

REASONS FOR DECISION

HOBART, 9 OCTOBER 2026

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

[2] The application is two-fold:

- A dispute in relation to termination of employment
- A dispute over the entitlement to long service leave, or payment instead of any such leave.

[3] I deal firstly with the application as it relates to termination of employment.

A Background Summary

[4] The Applicant commenced employment as Regional Volunteer Coordinator (Northwest) in June 2018. This was on the basis 0.4 FTE on a job share basis, pending the retirement of the other person involved. It would seem that prior to 2018, the position was full-time.

[5] In 2020 the role was advertised on 0.6 FTE basis, and the Applicant was successful.

[6] Between 2020 to 2025 the Applicant states she made repeated requests for additional hours and concerns regarding workload, volunteer programs and resourcing. The Applicant further states that in February 2022 she suffered mental health deterioration resulting in hospitalisation and extended absence from work. She states that in 2024 performance discussions included workload concerns and desire for additional time to adequately perform duties on site with volunteers.

[7] Between May to October 2025 the Applicant states she actively sought alternative full-time employment after concluding adequate hours would not be provided.

[8] In October 2025 the applicant accepted a two-year contract with the Commonwealth Government. She simultaneously sought two years Leave Without Pay (LWOP) from the Respondent. This application was declined. The Applicant then resigned with effect from 24 October 2025.

[9] The Applicant claims she was constructively dismissed.

[10] The application that she was unfairly terminated was lodged on 10 June 2026. This is 210 days outside the prescribed 21-day time limit. The Applicant seeks an extension time pursuant to s 29 (1B). For this to succeed the Applicant must demonstrate the existence of "exceptional circumstances."

[11] The submission of the Applicant states in part:

I resigned from my employment on 22 October 2025. At the time, I was under significant stress, and my mental health had declined as a result of my work situation and the circumstances leading up to my resignation.

It was not until later that my former role had been advertised as full-time on 9 December 2025. This was hidden by part-time wording on the opening page by my previous manager, but the statement of duties showed it to be full time. By that stage, the 21-day period from my resignation had already expired. That advertisement was significant to me because it confirmed my concern that the issue had not been the workload itself, but the refusal to properly resource the role while I was in it. That changed my understanding of what had occurred and whether I may have grounds to bring a claim.

After the role was advertised full-time on 9 December 2025, I began actively pursuing the matter with Anne Cunningham and Nathan Gautum. However, it then took a considerable period of time to obtain responses and clarity about my position. I was engaging with the process and trying to resolve or understand the matter, but it was not something that progressed quickly due to NRE Tas staff being on leave or on bushfire deployments. That also contributed to the delay, because I was not ignoring the issue — I was trying to work through it, and it was taking months to get responses.

Some events that affected me in 2025, occurred when I was not meant to be working. More broadly, I had been struggling for some time with the situation surrounding my role in the Northwest volunteer program. By April 2025, my mental health had declined to the point that I needed to change medication.

A major issue for me was that it had become clear I was not going to be given more hours in the role, despite the workload involved. My immediate manager, Brendon Clark, indicated there may be other regions or other tasks I could work on, but the real issue for me was the workload attached to that role and the fact it was only being resourced at three days per week. It appeared to me that this decision had been made at executive level and was beyond my manager's control. That is why I did not blame Brendon Clark in my resignation letter. I remained polite and professional throughout because I needed to preserve that relationship and use him as a referee for future work.

I did not want to leave my employment. I was upset at my leaving morning tea and cried in front of the regional office. I accepted another role because it was full-time and I needed stable full-time employment, not because I wanted to leave my existing role. At the time I resigned, my focus was on trying to manage my mental health, secure ongoing employment, and leave on good terms. I was not in a position where I clearly understood my legal options or was ready to commence proceedings within 21 days.

The delay was not because I was ignoring the matter or did not care about it. It was because I was dealing with a decline in my mental health, trying to transition into a new full-time role, trying to leave professionally and preserve references, and I did not fully understand the significance of the circumstances until after the role was advertised full-time which was done after the 21-day time limit.

[12] The authorities in relation to extension of time and exceptional circumstances are well established. Relevantly in this case I refer to *Izard v RG Simons*, *Kingston v T & E Gadzinski*; and *Singh v Huon Aquaculture*.¹

¹ T11310 of 2004 *Izard v R G Simons as Trustee for R G Simons Family Trust trading as T & H Investments*, T12391 of 2005 *Kingston v T & E Gadzinski* (Tomas Gadzinski, Elzbieta Gadzinski), and T11652 of 2004 *Singh v Huon Aquaculture Company Pty Ltd*

[13] It is unnecessary to analyse these authorities in depth. Suffice to say, there is an expectation that the 21-day time limit will be complied with. Further, ignorance of the law does not amount to an exceptional circumstance.

[14] I would also observe that the lodgement of a S29 (1A) application is not an onerous process. Whilst an application containing full particulars is encouraged, it is not essential at the time of lodgement. A simple email application is sufficient to establish jurisdiction. Nor is it necessary that every aspect the termination and surrounding circumstances be finalised, as seems to be implied in the Applicant's submission.

[15] On any construction the application is seriously out of time. Nothing which would have prevented a timely application has been identified and I therefore conclude that the case for exceptional circumstances has not been made out.

[16] Accordingly, the application for an extension of time is denied. It follows that the application alleging unfair termination is dismissed.

Long Service Leave

[17] The Applicant was employed from 27 June 2018 until 24 October 2025, a total of some 7 years and five months. The Applicant seeks a pro rata LSL entitlement pursuant to s 20 of the Long Service Leave (State Employees) Act (LSL Act), which relevantly reads:

- (1) An employee or, if the employee dies, the employee's personal representative, is entitled to be paid an allowance calculated in accordance with subsection (2) if –
 - (a) The employee has completed at least 7 years but less than 10 years of continuous employment and –
 - (i) Ceases employment because of ill-health: or
 - ...

[18] With the agreement of the parties, this matter has been determined on the papers. As a consequence, some of the material lacks the evidentiary rigor that attends with sworn evidence. I emphasise, however, that this was with the agreement of the parties and is consistent with Commission practice where there is consent.

[19] The Applicant was employed by letter of appointment dated 25 June 2018. This was on a 0.4 FTE basis. I am told that this was on a job share basis pending the retirement of the other individual. I am also advised that prior to this arrangement, the position was undertaken on a full-time basis.

[20] The letter of appointment states:

Your hours of work will be 7 hours and 21 minutes per day on every Monday and Tuesday. The days of work are to remain constant and are not to be varied on an ad hoc basis.

By mutual agreement, and in line with operational requirements, you may be asked to work additional ordinary hours of up to the full time equivalent of 36 hours and 45 minutes per week.

[21] The second para is both interesting and unusual, given that it is a 0.4 FTE appointment.

[22] On 22 September 2020 the Applicant was appointed on a permanent basis at 0.6 FTE. The letter of appointment contained the same proviso regarding work up to a Full-time basis.

[23] The applicant maintains that she raised workload issues at the time of the 2020 appointment and on a regular basis thereafter.

[24] In her written submission the applicant states:

For several years, I raised concerns that my position could not reasonably be performed within a 0.6 FTE allocation and requested additional hours. Rather than reducing my workload, my responsibilities continued to increase, including statewide responsibilities and work associated with the Volunteer Framework. These ongoing workplace circumstances adversely affected my mental health and ultimately led me to conclude that I could no longer continue in my employment with the Department.

While I accepted alternative full-time employment shortly after resigning, this does not mean that ill-health was not a substantial reason for ceasing my employment. Rather, accepting another position provided the financial security and opportunity to leave a working environment that had become detrimental to my health. The relevant issue is not whether I remained capable of working elsewhere, but whether the circumstances of my employment with the Department caused me to cease that employment.

I also rely on my application for leave without pay as evidence that I wished to preserve my employment relationship with the Department if a workable solution could be found. Had my intention simply been to leave for another employer, there would have been no reason to seek leave without pay.

The subsequent advertisement of my former position as full-time did not create my claim or my reasons for resigning. Rather, it confirmed my long-held concerns that the role required substantially more than 0.6 FTE and raises legitimate questions as to when the decision to return the position to full-time was made and whether that decision had already been made, or was under consideration, while my leave without pay application was being determined.

[25] And later:

The workplace stressors contributing to the deterioration of my mental health included:

- The large number of volunteer groups – more than what the previous full-time facilitator had.
- Coordinating not only the NW but the Northern and Statewide groups also.
- Receiving a lawful directive for a day that I was not meant to be working.
- Having to work weekends so volunteers were kept safe.
- Working with the Southern facilitator who was full-time but had less volunteer groups • Knowing the previous person was full-time.
- On top, learning a new data system - better impact (mentioned in my psychologist's report).

My position has never been that I was incapable of all employment. My position is that the conditions of my employment with the Respondent adversely affected my health to

the point that I could no longer continue in that employment. Accepting work in a different organisation, with different management arrangements and a different working environment, is entirely consistent with that position.

It is entirely possible for an employee to resign because their health has been adversely affected by their employment while also accepting another position that provides greater security and stability.

[26] I am satisfied that the Respondent sought to address the workload issue through a combination of overtime and/or TOIL. Indeed, the documents indicate that on occasions the FTE 0.6 status was increased on a temporary basis and later reverted to the status quo.

[27] By email dated 29 May 2024 the Applicant expressed concern about a range of workload issues and included the following comment.²

I may have to put in some overtime sheets, and I know you have always said I can go up a day, but I feel a bit funny about doing that as the money is not technically there for me and has to come from another area or project.

[28] In an email dated 5 March 2005, the Applicant wrote:³

Back in January I spoke to Nic about a few things - SPRATs mostly but I did tell him that I do not recommend the NW take on any more community groups. Our region has the most active groups. Which he was supportive of, and his advice was that "I can only do what I can do." So I am rolling with that.

P&C have organised a Risk Audit on the Volunteer Framework to occur. I highly doubt that the NW and North will pass but maybe that will highlight how we struggle on part time....

[29] In response Mr Clark said:

Please do not stress re the audit, for as you point out, the NW region is the most active in terms of community groups, so with limited resources, indeed, we 'can only do what we can do.'

I appreciate your commitment and dedication to the Volunteer program, and I know the community groups involved in the NW are the direct beneficiaries of your (sometime sacrificial) diligence.

[30] The Applicant states that between May and October 2005 she actively sought alternative full-time employment after concluding adequate hours would not be provided.

[31] On 29 September 2025 the Applicant sought a period of Leave Without Pay explaining that she had been offered a two-year fixed term contract with the Commonwealth Government. This application was declined and, as a consequence the Applicant submitted her resignation.

The Medical Evidence.

[32] The Applicant states that in February 2022 she was suffering from mental health deterioration resulting in hospitalisation and extended absence from work. There is a medical certificate on the file that states Ms Huisman is suffering from a medical condition and is totally unfit for work for a period of 30 days in March 2022.⁴ It is assumed that this is related the Applicant's statement concerning mental health.

² Respondent submissions 14 August 20206 Appendix 15.

³ Ibid Appendix 20.

⁴ Respondent submissions 14 August 2026 Appendix 12

[33] There is a further medical certificate for the period 8/4/25 to 24/4/25 but it does not state the medical condition.

[34] In correspondence dated 5 March 2025 there is a reference 'strong anti-anxiety medication 'she had been prescribed.

[35] In her written submission the Applicant states:⁵

I rely on the following evidence:

- a psychologist's report showing the work tasks I was struggling with and the effect they had on my mental health, and
- a GP letter confirming I was experiencing work-related stress and that my medication was changed in April 2025, I also took two weeks leave.

To the extent medical evidence is available, I rely upon that material. I also rely upon my own evidence regarding the effect my employment had upon my mental health, including the circumstances that existed before my resignation.

[36] It is regrettable that neither of the above documents could be filed with the Commission in a timely manner.

Respondent's Submissions.

[37] To the extent that it has been possible, the Respondent has been supportive of the Applicant during a period of illness and has attempted to accommodate workload issues through a combination of overtime, TOIL and temporary FTE upgrade.

[38] Following the Applicant's resignation, the Department exercised its management prerogative to reassess the position. The role was advertised at 0.8 FTE in December 2025 to reflect an expanded operational scope, including the transfer of management responsibilities for volunteer groups operating on Crown Land that had not previously formed part of the Applicant's contracted duties.

[39] The Respondent at all times remunerated the Applicant in accordance with contractual entitlements.

[40] The Respondent rejects the assertion that the Applicant was required to perform a full-time workload while remunerated as a part-time employee. Throughout her employment the Applicant's workload was actively managed. Limits were placed on the number of volunteer and community groups that could affiliate with Department of Natural Resources and Environment (NRE) within the Applicant's remit.

[41] The Respondent denies that the Applicant was subjected to an unsafe or psychosocially harmful workplace.

[42] An employee who resigns to pursue a better employment opportunity, having sought unsuccessfully, to keep both roles simultaneously, has not resigned by reason of domestic or pressing necessity.

[43] On the Applicant's own account, the catalyst for advancing the claims before the Commission was the advertisement of her former role as full-time six weeks after her

⁵ Applicants submissions 5 August 2026 p5.

resignation. This is inconsistent with the notion that the only relevant time for assessing a claim is the circumstances prevailing at the date the employment ceased.

[44] The material before the Commission points to a conclusion that the Applicant's primary motivation was to secure full-time employment, rather than resignation arising out of medical necessity.

[45] The Respondent does not suggest that the Applicant did not experience stress. Rather, that on the Applicant's own repeated account of why she resigned, ill health was not the operative reason at the time.

The Authorities

[46] The leading authorities on this subject were discussed in *Hourigan v Grundfos Pumps Pty Ltd*⁶

[47] The facts in *Hourigan* have similarities with the instant matter. For convenience, this discussion is reproduced below:

(56) The leading authority on this subject is *Computer Sciences of Australia Pty Ltd v Leslie*,⁷ a case adopted with approval by this Commission.⁸

(57) The test developed in *Computer Sciences* to determine whether an employee has an entitlement to pro rata LSL is:

1. Was the reason for the termination one which fell within the section?
2. Was such a reason genuinely held by the worker, and not simply colourable or a rationalisation?
3. Although the reason claimed may not be the sole ground which caused the employee to make a decision to terminate his or her employment, was it the real or motivating reason?
4. Was the reason such that a reasonable person in the circumstances in which the worker found himself or herself placed might have felt compelled to terminate his or her employment?

(58) In *Computer Sciences* the Full Court referred to a judgment of Sheldon J. in *Franks v Kembla Equipment Co Pty Ltd*⁹ relating to the test to be applied. His Honour said:

"The test, I would suggest, is whether there is a really serious problem in the home, although not necessarily a crisis. On the one hand the colourable and frivolous should be rejected but on the other over exacting standards should not be adopted. After all what is being dealt with is not a sphere-shaking issue but a reason for terminating employment and a material consideration must be whether a domestic situation is such that a reasonable man might feel compelled to seek its solution by terminating his employment"

⁶ T14240 of 2014 *Hourigan v Grundfos Pumps Pty Ltd*

⁷ [1983] 6 IR 188

⁸ T11081 of 2003 *Monsour t/a Lochnager Services v Olliver*

⁹ [1969] AR [NSW] 17 at 18

(59) The *Computer Sciences Case* was discussed in some detail by Asbury C in *AWU v Sunshine Coast Private Hospital*.¹⁰ In this decision the Commissioner expanded on the Computer Sciences tests, although in substance, the questions remain substantially the same.

(60) The Commissioner also referred to the observation of Sheldon J. above, and observed: ¹¹

“Although these cases deal with the term “domestic or other pressing necessity” they indicate the circumstances in which this will be established, and the nature of the test which must be met. I can see no basis for making the test for whether employment was terminated because of illness or incapacity, any more exacting than that for whether employment was terminated because of domestic and other pressing necessity, particularly when where both terms appear in the same section of the Act.”

(61) In *Sunshine Coast Private Hospital*, the applicant relied on “stress” as the reason for termination. Asbury C concluded that there was no reason that the term “illness” should be given a narrow meaning. Referring to dictionary definitions, the Commissioner observed that “*The modern meaning of the term “ill” is given as “out of health, not well.”*” On the facts of that case the Commissioner was satisfied that the applicant was suffering an illness at the time of termination, and that illness was related to stress.¹²

(62) In finding that the cause of the applicant deciding to terminate his employment was illness, Asbury C observed:¹³

“I can also see no reason to hold that the illness must necessitate the termination of employment or that it must be unlikely that the employee would return to the workforce. It is sufficient that illness caused the termination of the employee’s employment.”

[48] I note that these authorities are largely referring to statutory text similar to that found in the Long Service Leave Act 1976, which reads:

An employee whose employment is terminated on account of illness of such a nature as to justify the termination of that employment.

[49] Under the State Employees Act the wording is slightly different: viz.

Ceases employment because of ill health.

[50] It is difficult to conclude whether there is any practical difference between the two expressions. Without the benefit of submissions, my own view is that, if any distinction is to be drawn, the State Employees test is less onerous than the 1976 Act.

Conclusion

[51] It is well established, and I accept, that simply moving from one position to a better remunerated position, does not, in itself, amount to a “domestic or other pressing necessity”.

¹⁰ QIRC 19 February 2003

¹¹ Ibid para 6.2

¹² Ibid para 8.1

¹³ Ibid para 8.4

[52] In this case the Applicant accepted a full-time role with the Commonwealth, albeit on a two-year contract. In doing so she presumably lost the security of tenure attaching to State Service employment, a circumstance she unsuccessfully sought to preserve through the LWOP application.

[53] I have no doubt that the prospect of full-time employment was a motivating factor in the Applicant's resignation. But was deteriorating mental health also a major contributing factor leading to the resignation?

[54] The Applicant said:¹⁴

I accept that I sought stable full-time employment. However, that does not answer why I needed to seek alternative employment. After years of requesting additional hours and advising that my workload could not reasonably be performed within a 0.6 FTE allocation, I had concluded that the Department would not adequately resource my position. My deteriorating mental health and the ongoing workplace circumstances were substantial contributing factors to that conclusion. Accepting alternative employment was the practical consequence of those circumstances, not evidence that ill-health played no part in my resignation.

[55] The available medical evidence falls short of what might normally be expected in cases of this nature. Nonetheless I am satisfied that there is a pattern extending over the entirety of her tenure whereby workload issues were continually at the forefront. I accept the Applicant's assertion that this at one point led to a period of hospitalisation and a change in medication (anti-anxiety prescription.)

[56] Whilst the Commission is not in a position to properly assess the workload issues, I readily accept that in the Applicant's mind the issues were soundly based and not a figment of her imagination. I reach this conclusion based on the following:

The Applicant's period of tenure was bookended by the role being performed on a full-time basis, or at the least, 0.8FTE

The letters of appointment, even at 0.4 FTE, contemplated work up to full-time equivalent.

The repeated use of overtime, TOIL and temporary FFTE upgrades

The tenor of the email exchange between the Applicant and Mr Clark. Viz:¹⁵

"We can only do what we can do."

[57] There is no suggestion that the Applicant is incapable of performing any work. Clearly that is not the case. The Applicant's position is that the stress arising from workload issues created a situation whereby resignation was a viable and reasonable option. The test is not whether there was no alternative but to resign. As Asbury C observed in *Sunshine Coast Private Hospital*¹⁶:

I can also see no reason to hold that the illness must necessitate the termination of employment of employment or that it must be unlikely that the employee would return to the workforce. It is sufficient that the illness caused the termination of the employee's employment.

¹⁴ Applicants submissions 5 August 2026 p2.

¹⁵ Respondents submission 14 August 2026 appendix 20.

¹⁶ QIRC 19 February 2003

[58] I am satisfied that stress arising from workload issues is potentially an illness within the meaning of the relevant subsection. On balance, I conclude that the illness was a major factor (albeit not the only factor) which led the Applicant to resign. Further I am satisfied that the action of the Applicant was reasonably open and that a reasonable person in the circumstances in which the Applicant found herself placed might have felt compelled to resign.

[59] The application is granted.

Order

Pursuant to s 30 of the *Industrial Relations Act 1984* I hereby order that the Respondent pay the Applicant a pro rata Long Service Leave Allowance, calculated in accordance with s20 of the *Long Service Leave (State Employees) Act 1994*. Such payment is to be made not later than 30 October 2026.



Tim Abey
Commissioner