

DEPUTY PRESIDENT: I'll take the appearances please for the minister. You just have to announce who you are Mrs McCann and that you appear for the minister.

5 **MRS J. McCANN:** MRS JANINE McCANN; I appear on the minister's behalf.

DEPUTY PRESIDENT: Thank you, Mrs McCann. Mr Clegg.

MR R. CLEGG: If the commissioner pleases, I appear for the Community and Public Section Union (State Public Services Federation of Tasmania) CLEGG R.

10 DEPUTY PRESIDENT: Thank you, Mr Clegg. Mr Clegg some administrative mishap has led to you being not only inconvenienced this morning but in fact not having received any notification of this hearing. I apologise that that should have happened to you. I would
15 have been quite prepared to have put this hearing on at some other time and the fact that you chose this afternoon is courteous of you, but I apologise for having inconvenienced you.

MR CLEGG: That's all right, sir. It's not a problem. It's my first day back from holidays and I was a bit worried I hadn't put it in my diary, but there's no problem at all.

20 DEPUTY PRESIDENT: The fault was entirely ours. You too, Mrs McCann, were inconvenienced and I thank you for your patience in this regard. Would you like to speak to the application please.

MRS McCANN: Thank you, Mr Deputy President. The mainland allowance is a condition prescribed under clause 16(a)(i) of the
25 Tourism Tasmania (Staff) Award. It is payable to employees who are recruited in this state and are transferred from this state in the course of their duties to a mainland location on a permanent basis.

Under subclause (c) of the clause 16, the accommodation is subject to an annual review having regard to the annual review of major
30 residential property markets in Australia. This is published by the Real Estate Institute of Australia.

The allowance is calculated by averaging the median rental prices on three bedroom houses and two bedroom units over the four quarters from September 1995 to June 1996.

35 Mainland allowances are actually comprised of two parts; the accommodation allowance and the excess cost allowance. The application lodged by the employer is seeking to delete clause (a)(i) of clause 16 and insert the following: Sydney - \$8,850.42; Melbourne - \$1,128.44; Brisbane - \$2,267.49; Adelaide - Nil; Canberra - \$2,350.68.

At the time of lodging the application with the industrial commission, the union was consulted and verbally agreed to the variation. The employer recommends that the effective date for the new subclause is the date that the decision - is determined by the commission which
5 has traditionally always been the case.

The employer would be concerned with a retrospective date for payment as this could actually result in an overpayment situation for employees. Thank you.

DEPUTY PRESIDENT: On this occasion at least, Mrs McCann, this
10 review does not seem to have been done on an annual basis. Is there some explanation for that?

MRS McCANN: Yes, there actually is. In July 1995, the industrial commission handed down a decision that the subsequent adjustments would be required to be calculated from September 1995 to June 1996
15 so we actually missed a year.

DEPUTY PRESIDENT: And how would it come about in the event that the commission could be encouraged to award retrospectivity that the variation of the award could create an overpayment? How would that occur?

MRS McCANN: The fluctuations in the allowance from year to year could actually see a drop from location. The example that I could actually use in this case is the current Canberra rate is \$2,600 whereas this variation will decrease it to \$2,300.

DEPUTY PRESIDENT: Yes, I see. Thank you, Mrs McCann. Mr
25 Clegg?

MR CLEGG: I don't have any objections to the applications and in fact we fully support the application. And in relation to the operative date, I spoke to the agency this morning and we will be happy to have the operative date as from the date of the decision. If the commission
30 pleases.

DEPUTY PRESIDENT: Thank you, Mr Clegg. Mrs McCann, does the minister assert that this application fulfils the requirements of the commission's Wage Fixing Principles and is consistent with the public interest provisions of section 36 of the Act?

MRS McCANN: Yes, it does.

DEPUTY PRESIDENT: Thank you, Mrs McCann. Is that the view of the CPSU, Mr Clegg?

MR CLEGG: It is, Mr Deputy President.

DEPUTY PRESIDENT: Thank you. That being the case, I indicate to the parties that I am satisfied that the application falls within the current Wage Fixing Principles and contains no elements that are contrary to the public interest provisions of section 36 of the Act.
5 Accordingly, it is my intention to vary this award in terms of the minister's application to be effective from the beginning of the first pay period commencing on or after today's date.

That concludes the hearing of matter T6867 of 1997.

HEARING CONCLUDED