

**TASMANIAN INDUSTRIAL COMMISSION**

Industrial Relations Act 1984

T No. 3789 of 1992

**IN THE MATTER OF** an application by the National Union of Workers, Tasmanian Branch to vary the Rubber Trades Award

re Scope, supersession and savings, definitions, wage rates, allowances, annual leave, hours of work, second structural efficiency

T No. 3815 of 1992

**IN THE MATTER OF** an application by the Federated Clerks Union of Australia, Tasmanian Branch to vary the Rubber Trades Award

re implement new structure for clerical classifications and first minimum rates adjustment

COMMISSIONER WATLING

HOBART, 27 May 1992  
Continue from 18/5/92

**TRANSCRIPT OF PROCEEDINGS**

Unedited

COMMISSIONER WATLING: No alterations to appearances from the previous day's sitting? Right, Mr Richardson?

MR RICHARDSON: Thank you, commissioner. Commissioner, if I could seek to tender a revised set of draft variations sought by the National Union of Workers.

COMMISSIONER WATLING: Right. Well we can mark this R.3.

MR RICHARDSON: Commissioner, the revised set of draft variations encapsulates a number of elements. Firstly, there is a proposed alternative scope clause. I should indicate to the commission that in conversation with the TCI immediately prior to proceedings that what appears in the exhibit is subject to change again, and I will return to that later in my submissions. The proposed wage rates -

COMMISSIONER WATLING: Well do you want to make any changes to it off the record so we go through and we're talking about the one document?

MR RICHARDSON: That might be easier, yes.

COMMISSIONER WATLING: Yes, we might go off the record thanks.

OFF THE RECORD

COMMISSIONER WATLING: Mr Richardson, I understand you want to seek leave to vary application 3789 of 1992.

MR RICHARDSON: That's correct, commissioner. The union seeks to vary its application insofar as it only seeks to progress the second structural efficiency increase available under the 1989 state wage case.

COMMISSIONER WATLING: Any objections to the variation of the application? No objection. There being no objection, it is granted. I understand the Federated Clerks Union wishes to amend their application 3815 of 1992. Mrs Dowd?

MRS DOWD: Yes, Mr Commissioner. The Federated Clerks Union would like to amend application T.3815 of 1992 to have access to the second structural efficiency adjustment in accordance with the wage fixing principles.

COMMISSIONER WATLING: Good, thank you. Any objection to the variation of that application? No objection, leave granted. Mr Richardson?

MR RICHARDSON: Thank you, commissioner. Commissioner, prior to adjourning into conference the union tendered a new draft set of variations which has been the subject of some amendment in conference.

COMMISSIONER WATLING: Right, exhibit R.3, that is.

MR RICHARDSON: That's correct. And also during the conference the union tendered a further document, which is the proposed classification structure, and I would seek to have that entered in as an exhibit.

COMMISSIONER WATLING: We'll mark that exhibit R.4.

MR RICHARDSON: Thank you. Commissioner, throughout the conference today and previous conferences which the commission has attended, the commission has become aware of a number of matters of difference between the parties. I can indicate to the commission for the record that those differences have been resolved and that the matter is now progressed on the basis of consent.

If I could summarise the changes sought to the award by the National Union of Workers so as to access the second structural efficiency increase and as contained in the amended exhibit R.3, the parties have proposed a variation in the existing scope clause so as to make it clear that retailers of rubber tyres fall within the scope of the Rubber Trades Award and that further such work covered by the Rubber Trades Award does not fall within the scope of the Automotive Industries Award. A corresponding application to vary will be lodged this afternoon by the National Union of Workers to seek an amendment to the scope of the Automotive Industries Award.

The parties have looked and agreed upon a number of measures designed to assist in the implementation of the structural efficiency principle and greater flexibility at the work place. They include a variation to the existing annual leave provisions to allow for greater flexibility in the timing and taking of annual leave between an employee and his or her employer; the ability to work ordinary working hours on a Saturday and/or Sunday, subject to certain provisions that are contained at page 8 of the amended exhibit R.3; the ability to stagger meal breaks to meet operational requirements and tea breaks to meet operational requirements; a variation to the contract of employment clause to allow for an employer to direct employees to work within levels of their skill, competence and training and; finally, as contained in a proposed new clause 35 with the title 'Structural Efficiency', the parties have given a number of commitments towards award modernisation, work place consultation and a proposed new classification structure.

That classification structure is contained in exhibit R.4. The structure will be the subject of discussion between the parties in the period between now and 16 June. It is intended in further proceedings before the commission to, in accessing the 2.5% available under the August state wage case decision, to insert that structure with any amendments as necessary into the award and within the definitions clause of the award.

Without going to the contents of exhibit R.4 in any detail or great detail, it proposes some six levels of tyre retail worker with the capacity for a further level, level 7 which requires further discussion. The structure is integrated, that is that is incorporates the variety of functions performed in tyre retail establishments from tyre fitting to sales to clerical work to work performed by tradespersons, such as wheel aligners and so on and provides a career path which, in the NUW's view, is consistent with the principles, is realistic and reflects the needs of the establishments covered by this award. It's the intention, as I've said, to seek to insert that structure in the award in a period of two months.

Mr Commissioner, the union would seek the issuing of variations to the Rubber Trades Award in the form of the amended exhibit R.3 and would seek an operative date being from the first full pay period commencing on or after the date of today's hearing, 27 May. If the commission pleases.

COMMISSIONER WATLING: Good, thank you. Mrs Dowd?

MRS DOWD: Mr Commissioner, the Federated Clerks Union supports the submission by the National Union of Workers in relation to the variations to conditions clauses in the Rubber Trades Award. We tender as an exhibit the correct wage rates incorporating the second structural efficiency payment for the clerical division.

COMMISSIONER WATLING: Mark this D.1.

MRS DOWD: the Federated Clerks' Union has indicated to the TCI and the National Union of Workers that we are not really happy with the proposed classification structure R.4, but we have reluctantly agreed to it, but we wish to have it on record that we will not be held to this in any future discussions or negotiations with the TCI for relativities and .... tasks for clerical employees. If the commission pleases.

COMMISSIONER WATLING: Right. And you endorse the other amendments put forward in Exhibit R.3?

MRS DOWD: Yes, we do, Mr Commissioner.

COMMISSIONER WATLING: Thank you. Mr Clues?

MR GRIFFIN: Excuse me, Mr Commissioner -

COMMISSIONER WATLING: Mr Griffin, sorry.

MR GRIFFIN: - I'd mention the fact that we are - on behalf of SDA - are in support of the proposal put by Mr Richardson of the NUW. However, in document R.4 we do have some concern in view of the relativities as far as the basic counter sales person is concerned.

I do understand that these sales perhaps are in most cases, if not all, peripheral to their other duties. However, I would like to make note on record, or written on the record, that we would agree with this structure in that these relativities are confined to this award, or proposed award, or in this industry, and certainly would not have reflection in any negotiations in any other awards, most notably the Retail Trades Award.

COMMISSIONER WATLING: I just note that - and you might take it on board - that I am not actually endorsing the structure at this stage, and if there are any problems with the structure then maybe you need to meet prior to the next hearing to look at those issues. But I take on board your preliminary comments on this point, but I am not actually determining the structure today, I am actually determining that it is part of your program to examine the structures, which I take it we will hear argument on on the next occasion when we come back.

But I take on board your preliminary comments at this stage. But I am not enshrining those levels as contained in R.4 today, I am just looking at the fact that you are going to discuss this as part of the program.

MR GRIFFIN: Well, Mr Commissioner, I just thought it was pertinent that I make those comments at this stage.

COMMISSIONER WATLING: Oh, yes, that's fair enough.

MR GRIFFIN: Thank you.

COMMISSIONER WATLING: Mr Clues?

MR CLUES: Mr Commissioner, we've appeared on this matter before you on a number of occasions now, that's at least in relation to the second structural efficiency increase. The parties are in a position whereby they have reached a consent position. The variations that arise are those that have been explained in some detail by the NUW, and it would be merely a reiteration of his submission if I were to delve in those in some detail, other than to put on the record that the broadbanding increases that are identified in the

supplementary payments column after the .... over award payments that TCI is happy with the variations that pertain to flexibilities.

We believe there are a number of significant variations to justify the awarding of the second stage structural efficiency increase. That the application that is before you today, as has been recognised by the parties, is a part of an ongoing process in the review of this particular award, and there are further discussions and negotiations that are to occur between the parties in relation to the 2.5% wage increase and the implementation of the minimum rate adjustments. Part of those discussions will pertain to the implementation of a new classification structure.

I believe that today, having been afforded the opportunity of an adjournment, the parties have reached an element of agreement, and that agreement is reflected in the NUW exhibit that outlines the classification structure. It may need some minor modifications, but in large we believe that we have reached a consent position. I would contend that the application before you and the exhibits that have been tendered are consistent with the wage-fixing principles and do not offend the public interest. The TCI has no difficulty in accepting the operative date as being the first pay period on or after today's date.

In relation to the comments made by the clerks, it is good that the parties have been able to reach agreement, and the TCI's position in relation to the clerical structure and the relativities attached thereto is that we will examine each award and in examining each award we will determine what we believe to be an appropriate position pertaining to clerks, and we are not holding ourselves fast to any particular structure for clerks or any particular relativities that may be associated with that classification structure.

In relation to comments made by Mr Griffin it is really the same position that the TCI wouldn't be seeking in any particular award to have established relativities in one award automatically apply to that of another. If there is merit in the argument of relativities applying for a particular classification structure applying to another award, then we'll examine that. Subject to any questions that the commission may have, that concludes my submissions.

COMMISSIONER WATLING: Good. Thank you. Any further submissions in reply? No further submissions. I can indicate then to the parties that I will endorse this award being varied to reflect the second structural efficiency increase in line with the amended draft order in R.3.

I will - I have noted - that you have set forth a program for me in awarding this matter. I will reconvene a hearing on the

16th of June - in fact, I will reconvene these applications on the 16th of June - to examine whether or not you've finalised the program for this award, and I understand that I may have to deal with applications for the 2.5% increase at the same time if they are so lodged. But, in granting this part of the application, I will reconvene on the 16th to hear submissions on the finalisation of the outstanding issues. Thank you for your participation. This matter is now adjourned to the 16th.

HEARING ADJOURNED