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**AUSCRIPT**

## TRANSCRIPT OF PROCEEDINGS

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O/N 2662

### **TASMANIAN INDUSTRIAL COMMISSION**

### **DEPUTY PRESIDENT P.C. SHELLEY**

**T No 12557 of 2006**

### **GENERAL CONDITIONS OF EMPLOYMENT AWARD**

**Application pursuant to the provisions of  
section 23(2)(b) of the Industrial Relations Act 1984  
by the Minister Administering the State Service Act 2000  
to vary the above award re standby rates and availability**

**HOBART**

**2.30 PM, THURSDAY, 9 MARCH 2006**

**This transcript was prepared from tapes recorded  
by the Tasmanian Industrial Commission**

**HEARING COMMENCED**

**[2.30pm]**

PN1

MR P. BAKER: I appear on behalf of the Minister. With me this afternoon is MS J. FITTON.

PN2

MR T. KLEYN: I appear for the Health Services Union of Australia, Tasmania Number 1 Branch. I also understand that you have received advice that I am also representing the Community and Public Sector Union (State Public Services) Federation Tasmania Inc.

PN3

THE DEPUTY PRESIDENT: Thank you. Mr Baker?

PN4

MR BAKER: Thank you, Deputy President. Deputy President, this application arises as a consequence of a matter that is contained within the 2004 State Services Wages Agreement. In that document, there is a provision in fact we would review two aspects of availability. One is the rate of the allowances, and the second part of that is to look at the concept of employees who work from home to attend to after-hours matters. Insofar as the first issue is concerned, that is the allowance, it is the rate of the allowance. There have been a series of meetings between the parties which commenced earnestly in September of last year and more recently in February and as late as last week. As a part of that ongoing process, it was agreed between the parties that we would increase the current allowance by the safety net adjustment that has occurred in the award, in the award rate. The rate was last increased as a result of the 1991 national wage case decision.

PN5

THE DEPUTY PRESIDENT: I thought there was a fair amount of catch-up there.

PN6

MR BAKER: Which brought it to its current figure of 80.7 cents. Having done the calculation and having rounded the figure off, we intend to vary the award, obviously with the Commission's endorsement, we intend to vary the award to reflect \$1.20. Now, it may seem a large amount, but as I have indicated it has been only 15 years since it was last varied.

PN7

THE DEPUTY PRESIDENT: That doesn't affect the minimum payment in that clause?

PN8

MR BAKER: No, it doesn't, which is another issue which if you have a spare half hour I will explain it to you. But it had - the minimum figure actually has no bearing on the application of the allowance, if I can say that to you.

PN9

THE DEPUTY PRESIDENT: Has that not been varied since 1991 either?

PN10

MR BAKER: No. But the agreement between the parties was to simply vary the hourly rate. And as I said, the minimum payment - - -

PN11

THE DEPUTY PRESIDENT: Why wouldn't you simply apply the same formula?

PN12

MR BAKER: Sorry?

PN13

THE DEPUTY PRESIDENT: Why wouldn't you simply apply the same percentage to that?

PN14

MR BAKER: Well - - -

PN15

THE DEPUTY PRESIDENT: Because you haven't agreed to it?

PN16

MR BAKER: Well, it was never discussed between the parties. However, I should add, Deputy President, that the parties have agreed by a new structure for the clause. Now, there are some differences between us as to what the new rates will be in the award, and they will be the series of further discussions between the parties over the next two or three weeks.

PN17

THE DEPUTY PRESIDENT: Well, what that is doing is changing the number of hours a person is actually standing by, or whatever.

PN18

MR BAKER: Yes.

PN19

THE DEPUTY PRESIDENT: That doesn't - that seems inconsistent.

PN20

MR BAKER: Well, the formula has become - it doesn't reflect the original intent of the parties when the agreement was actually originally made. What it should equate to what eight hours of work. Now, the current allowance I think equates to about 12. Somehow or another it has simply got out of kilter with what it is.

PN21

THE DEPUTY PRESIDENT: I see.

PN22

MR BAKER: But as I have indicated, it has no bearing on the actual application of it, because people are actually still put on stand - sorry, on availability from end of shift to commencement of shift the next day. So we

don't know of anyone that actually goes home as put on availability for two hours, for example.

PN23

THE DEPUTY PRESIDENT: So it is 16 hours in effect?

PN24

MR BAKER: In effect it is 16 hours, yes.

PN25

MR KLEYN: Yes.

PN26

THE DEPUTY PRESIDENT: So it should be about double then, if it - - -

PN27

MR BAKER: Well, part of the discussions we have had, as I have indicated, Deputy President, is that we have restructured the entire clause. There is actually a new agreed clause between the parties. The hassle we have of course in all these discussions of course is how much and to whom, and that is actually the basis of some work that is currently being done on the one part by HACSU and the TP - TPSO I was going to say - the CPSU and ourselves.

PN28

THE DEPUTY PRESIDENT: Right.

PN29

MR BAKER: Now, we would submit to you, Deputy President, that it is consistent with the wage fixing principles, principle 812, and it satisfies the - I have lost the - section 36 of the Act, section 36.

PN30

THE DEPUTY PRESIDENT: Okay. And operative date?

PN31

MR BAKER: The operative date would be from the first full pay period on or after today. Public interest test, I do beg your pardon.

PN32

THE DEPUTY PRESIDENT: Yes.

PN33

MR BAKER: I remembered the section number but not the name. And I would conclude my submission there.

PN34

THE DEPUTY PRESIDENT: Thank you. Mr Kleyn?

PN35

MR KLEYN: Commissioner - Deputy President, I am sorry, look, we agree with the submission made by Mr Baker. We can confirm that those negotiations have taken place and are continuing. I guess my comment on the application, the clause as it currently reads, is that as far as I am aware, nobody

actually gets the minimum \$10.30 and they would all get the 80.7 cents per hour.

PN36

THE DEPUTY PRESIDENT: 516, yes.

PN37

MR KLEYN: So if they were on-call from end of shift to the beginning of the next shift then - you know, so I don't think anybody is actually on-call for shorter periods than that. So likewise I would submit that it is consistent with the wage fixing principles and section 36 of the Act and ask that you approve it. Thank you.

PN38

THE DEPUTY PRESIDENT: Okay. Well, I indicate to the parties that it will be approved with an operative date of the first full pay period on or after 9 March 2006. That will be confirmed by way of a written decision and an order, and that will be issued very shortly. The matter is adjourned. Thank you.

**ADJOURNED INDEFINITELY**

**[2.40pm]**