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TRANSCRIPT OF PROCEEDINGS

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O/N 1202

**TASMANIAN INDUSTRIAL COMMISSION**

**DEPUTY PRESIDENT P.C. SHELLEY**

**T No 11655 of 2004**

**TRANSPORT WORKERS GENERAL AWARD**

**Application pursuant to the provisions of  
section 23(2)(b) of the Industrial Relations Act 1984  
by the Transport Workers Union of Australia  
(Victorian/Tasmanian Branch) to vary the above  
award re inserting a new clause 8(d) - minimum wage**

**HOBART**

**9.30 AM, FRIDAY, 1 OCTOBER 2004**

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

**HEARING COMMENCED**

**[9.35am]**

PN1

MR M. COOK: I appear on behalf of the Transport Workers Union of Australia and with me is MR I. HALL, Organiser Transport Workers Union of Australia.

PN2

THE DEPUTY PRESIDENT: Thank you. And I note that there is no appearance on behalf of the TCCI.

PN3

MR COOK: Subsequent to our phone conversation I have a fax here from the TCCI that outlines their position.

PN4

THE DEPUTY PRESIDENT: Okay. Are you going to hand that up?

PN5

MR COOK: Yes, I can do it now or later.

PN6

THE DEPUTY PRESIDENT: Thank you. Right, continue.

PN7

MR COOK: I have spoken to Mark Watson and he indicated that he thought that that facsimile would have sufficed the requirements of the Commission.

PN8

THE DEPUTY PRESIDENT: Okay, well I will just read out what it says. It is to Bill Noonan and it is from Nicholas Gozzi of the TCCI and it says:

PN9

*The TCCI would like to formally support the application to vary the Transport Workers General Award. Thane Brady and myself have checked the application and are happy with it. Mark Watson suggested that since we consent to this application would it be at all possible to avoid a Commission hearing and present a document to DP Shelley outlining the consent of the parties concerned.*

PN10

And you are suggesting that this document is sufficient to indicate their consent?

PN11

MR COOK: That was what Mark Watson indicated to me over the phone and there has been no other correspondence from them.

PN12

THE DEPUTY PRESIDENT: Thank you. Are you going to address the application?

PN13

MR COOK: If I can, your Honour.

PN14

THE DEPUTY PRESIDENT: Yes.

PN15

MR COOK: On 10 August 2004 the union wrote to the Registrar pursuant to section 23(1) of the Act seeking to insert a new HD minimum wage clause into the award that would provide for a minimum wage of 467.40, the amount determined by a Full Bench during the State Wage Case in 2004. The minimum award wage is grade 1 at 488.10 per week is therefore \$20.70 cents per week above the current minimum wage of the award effective 1 August 2004. I have got a copy of this if you want to - if it would make it easier to - - -

PN16

THE DEPUTY PRESIDENT: A copy?

PN17

MR COOK: I have what I am reading to you, your Honour, if it would make it easier?

PN18

THE DEPUTY PRESIDENT: No, no, you can continue.

PN19

MR COOK: Okay. The branch originally made an application to insert a minimum wage clause in the award in a letter to the then Acting Registrar dated 21 October 2002 and that was listed for hearing on 16 January 2003 in T number 10504 of 2002. And in a decision by the Commission as currently constituted issued on 30 January 2003, the Commission dismissed the union's application. It is my understanding that the principal reason for dismissing the union's application was that a conference had not been convened between the parties to the award as required by the 2002 State Wage Case, especially clause 7 of the wage fixing principles.

PN20

A conference was subsequently convened on 30 April 2003 before the Commission as currently constituted and I understand that the union has satisfied the requirements of the Act and the wage fixing principles. It is the union's view that there is now no reason why the current application should not be approved. At the same time that the union sent the application to the Registrar a copy was faxed to the TCCI. On 30 August 2004 the union faxed the TCCI seeking confirmation that they were either supporting or opposing the application. At that stage we hadn't received a reply, but subsequently we have received the fax that I have handed up to your Honour. I have got a copy of the draft orders to hand up if necessary.

PN21

THE DEPUTY PRESIDENT: Yes, please. Thank you. And the draft order is set out according to the model clause in the principles?

PN22

MR COOK: That is my understanding, your Honour, yes.

PN23

THE DEPUTY PRESIDENT: Yes. Okay.

PN24

MR COOK: So therefore I would respectfully request the Commission vary the award by inserting the proposed new clause in accordance with the draft orders effective the first pay period commencing on or after 1 October 2004, if the Commission pleases.

PN25

THE DEPUTY PRESIDENT: Thank you. Well, a big difference between this and the previous hearing in relation to this matter as last time the TCCI didn't consent. This time they do. Given that it is a consent matter and it doesn't offend the public interest test and it complies with the wage fixing principles of this Commission I indicate to the union that the award will be varied in the manner sought with an operative date of the first full pay period on or after 1 October 2004, subject to checking the order and a decision will issue in due course. That is just to check that the wording - that there are no errors or omissions. If there are we will be in touch.

PN26

MR COOK: Okay.

PN27

THE DEPUTY PRESIDENT: That concludes today's proceedings.

**ADJOURNED INDEFINITELY**

**[9.43am]**