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## **TRANSCRIPT OF PROCEEDINGS**

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O/N 9078

### **TASMANIAN INDUSTRIAL COMMISSION**

**COMMISSIONER T.J. ABEY**

**T No 10610 of 2002**

### **BUSINESS SERVICES AWARD**

**Application pursuant to the provisions of  
section 23(2)(b) of the Industrial Relations Act 1984  
lodged by the Australian Municipal, Administrative,  
Clerical and Services Union to vary the above award  
re - include a Schedule 1 in respect to redundancy  
entitlements**

**HOBART**

**12 NOON, WEDNESDAY, 18 DECEMBER 2002**

## **HEARING COMMENCED**

**[12noon]**

**PN1**

MR I. PATERSON: I appear on behalf of the Australian Municipal, Administrative, Clerical and Services Union.

**PN2**

MR J. THOMAS: I appear on behalf of the Tasmanian Chamber of Commerce and Industry Limited.

**PN3**

THE COMMISSIONER: Thank you. Yes, Mr Paterson?

**PN4**

MR PATERSON: This application, Commissioner, comes to you as a consequence of your decision in the matter that was before you earlier this week with - in T10592. I will provide a little bit of background to this seeing that it is a separate matter. The facts of the circumstances are largely outlined by yourself in that decision. This is a company that has been put into administration and we are seeking to guarantee the entitlements of the employees to severance pay in the event that they are made redundant and terminated in the insolvency process.

**PN5**

This application seeks to put a schedule into the Business Services Award which is the award that underpins the employment of employees at TasPage Pty Ltd, now an administrator appointed. We are seeking to have the application of the schedule solely to TasPage Pty Limited and all employees engaged by TasPage and subject to the Business Services Award seeking to establish and entitlement for an employee terminated on account of redundancy to severance pay of two weeks pay for each year of service with pro rata severance pay for part year service. We would seek to clarify and determine the weeks pay and the wages payable to the employee in respect to their usual rostered hours of work.

**PN6**

I would like to seek leave to amend the application that is before you such that the operative date reads that the schedule shall operate on and from 4 December 2002 to ensure that it has full effect prior to the commencement of these proceedings and the appointment of the administrator.

**PN7**

THE COMMISSIONER: Yes, thank you Mr Paterson. Do you have any objection to the amendment Ms Thomas?

**PN8**

MS THOMAS: No.

**PN9**

THE COMMISSIONER: Thank you the application will be amended accordingly.

PN10

MR PATERSON: Thank you, Commissioner. I believe this is an appropriate course of action. We are not seeking to establish any general award based entitlement. We won't be relying on the outcome of this application to argue that there is any new and greater standing to the entitlement to severance pay. We would continue to make our stand in the way that we always have on the basis of the ongoing determinations of the Commission in respect of severance pay. So we place no reliance on this variation to this award in terms of precedent for award based severance pay.

PN11

It is something that is unique and special to this particular employer and in discussions with Mr Watson from the Chamber of Commerce and Industry I have indicated to him that we are quite open to the idea and happy to give an undertaking to delete this provision once it becomes an obsolete provision. So that once the matters that this relate to, either by the sale of the company or the winding up of the company, or the termination and subsequent payment to all the employees of their severance payment in accordance with this order - this application and any order that results from it. If that means that at some time in the future this is an obsolete provision, we will make the application to delete the provision.

PN12

I put it to you that it is in the public interest to endorse and make this order in the terms - the variation to the award in the terms sought principally because it ensures that these employees are not disadvantaged in respect to the operation of schemes which cover redundancy pay. And also because the circumstances and the timing mean that it would be may be difficult to bring on the individual disputes in respect of severance pay. It doesn't deviate from what I believe would be a reasonable expectation of the union should we revert to pursuing the section 29(1) application in the event of redundancies. In those terms it sets no new standards, sets no new benchmarks, it really is a process that is directed solely to particular circumstances of this employer.

PN13

I submit it is within your jurisdiction of power under the Act to make such an order as a variation to this award and I would ask that the operative date for this schedule be as we have indicated in our amended application, 4 December. Unless you require any further advice or comment from me or information, that is my submission.

PN14

THE COMMISSIONER: Thank you, Mr Paterson. Thank you. Ms Thomas?

PN15

MS THOMAS: Yes, thank you, Commissioner. We give our consent to this application. We support Mr Paterson's comments entirely about this application not being seen to create any precedent whatsoever. And it is agreed that the provision will be deleted once this matter is settled finally. If it pleases the Commission.

THE COMMISSIONER: Yes, thank you Ms Thomas. Having heard the parties the application as it is amended will be granted and formal decision to that effect will be issued as soon as possible. Hopefully later today. The variation in the form of a schedule will be operative from - on and from 4 December 2002. On this basis the Commission stands adjourned.

**ADJOURNED INDEFINITELY**

**[12.08pm]**