

COMMISSIONER: I'll take appearances, please.

**MR I. PATERSON:** If the commission pleases, I appear for the Trades and Labor Council in the matter T7529 of 1998. I believe you have authorisation from the TTLC for me to appear in this matter, IAN PATERSON.

COMMISSIONER: Thank you.

**MR R. FLANAGAN:** If it please the commission FLANAGAN, R., for the Australian Workers Union, Tasmanian Branch.

COMMISSIONER: Well, thank you, Mr Flanagan and welcome, I don't think I've had the pleasure of your company before.

MR FLANAGAN: No, that's right, commissioner.

**MR M. WATSON:** May it please the commission, MARK WATSON, Tasmanian Chamber of Commerce and Industry and I appear in both matters, commissioner.

COMMISSIONER: Good. Thank you. As a procedural matter, have the parties any view as to whether or not we should hear the applications together, or do you want them dealt with separately?

MR WATSON: We haven't really discussed that, commissioner, but I think I'm beastly careless. If you want to joint them together, that's fine with me.

COMMISSIONER: I just thought it may have made it easier on the parties instead of presenting two arguments about the same issue. The arguments may well be the same for both applications.

MR WATSON: I suppose the -

COMMISSIONER: I'm not too sure because you're the applicant, so I'm not too sure what you want to do.

MR WATSON: We're the applicant in one, commissioner, and the TTLC is the applicant in the other.

COMMISSIONER: Yes.

MR WATSON: But if you wish to hear them together, that's fine.

COMMISSIONER: I take it you're responding to both of them - you're responding to the other one?

MR WATSON: Yes.

COMMISSIONER: And I take it the TTLC is responding to the -

MR PATERSON: I don't have instructions on the second matter in terms of the TCCI's application.

COMMISSIONER: You're on a winner then.

5 MR PATERSON: I'm in a difficult position there, but I don't have any objection in-principle to them being joined and played out together.

COMMISSIONER: Well, we'll take it that the arguments about adding these awards to the schedule be run as one, if the parties are happy?

MR WATSON: Yes, sir.

COMMISSIONER: Right. Who's going to bat first? Mr Watson?

10 MR WATSON: I'll kick off, commissioner. In relation to the particular application in relation to the Baking Industry Award, first of all, the application simply is to amend schedule A of the National Training Wage Tas (Private Sector) Award by inserting the Baking Industry Award into the schedule of awards, that is schedule A and at the same time deleting the Bakers Award from that particular schedule.  
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The application follows the restructure of the former Baker's Award, which is part of that process and it's name changed to the Baking Industry Award and that in fact took effect from 25 November 1996. The application, if approved, will then allow employers bound by the  
20 Baking Industry Award to employ trainees in accordance with the National Training Wage Tas (Private Sector) Award with the Baking Industry award in fact appearing in schedule A.

It is our submission that the application doesn't offend the commission's Wage Fixing Principles and we would suggest that it  
25 certainly is in the public interest that the application be approved to allow employers under this award to be employing trainees in accordance with the National Training Wage Tas (Private Sector) Award. If it please the commission.

30 Thank you. Any further submissions on that issue? Mr Paterson hasn't got any, I don't think, has he?

MR PATERSON: The application made by the TTLC arises in a slightly different respect of this award. This award was, I believe, not included on schedule A as a National Training Wage Tasmanian (Private Sector) Award. An approach was made to my union by an  
35 organisation wishing to place a trainee in the optical industry and the absence of the Optical Industry Award from schedule A of the National Training Wage Award was an impediment that could have prevented or hindered that placement of that trainee. I made the approach to the Trades and Labor Council to find out whether there was any reason  
40 why the Optical Industry Award should not be included and as a

consequence of my discussions, this application is made to include the Optical Industry Award on schedule A.

5 Similarly, I believe it is consistent with the Wage Fixing Principles, the award making principles and it is in the public interest, particularly in respect of the needs of employers wishing to engage trainees and the trainees themselves.

COMMISSIONER: Good. Thank you. Any submissions in support?

MR WATSON: On our behalf, Mr Commissioner, the matter is a consent matter. As we have advised the parties prior to the hearing, so  
10 we don't have any further submissions.

COMMISSIONER: Good. Mr Flanagan, have you anything?

MR FLANAGAN: Mr Commissioner, we have no objections to the variation sought.

COMMISSIONER: Have the parties any view on the operative dates of  
15 the two applications and the variations to the awards?

MR WATSON: Commissioner, in relation to the Baking Industry Award application, I guess as a tidying up exercise perhaps the variation could take effect from 25 November 1996, when the Baking Industry Award had its name change. I don't know if that in fact  
20 would be necessary but it would certainly protect any situations that have occurred since that time if employees under that award have in fact employed trainees and I guess if -

COMMISSIONER: 26 November?

MR WATSON: 25 November 1996. It would simply be, I suppose, a  
25 technicality more than anything else because I think in good faith everybody was operating based on the presumption that the National Training Wage Award would have allowed trainees to be employed. However, the award listed was the Bakers Award, not the Baking Industry Award, so I don't know whether that would in fact cause any  
30 problems or not.

If that in fact was rejected by the commission, then our second position would be an operative date from the date of decision.

COMMISSIONER: Good. Have the parties got any view in relation to  
35 the Baking Industry Award's operative date? No other view. I've heard your submission in relation to the Optical Industry Award. Have you any view on the operative date?

MR PATERSON: I don't have any particular on that, Mr Commissioner. I'm unaware of that what the particular circumstances with the placement of this individual has been since that initial

contact. So, I don't have instruction on that. I guess the date of the application may provide some protection but the date of decision would be acceptable. I don't have a particular position to put in fact.

5 COMMISSIONER: Well, I can indicate to the parties that I'm going to accept the applications. In relation to the operative date, for the Optical Industry, it will be the first full pay period to commence on or after today. I am wedded to the submission put by the TCCI in relation to the operative date. Seeing there is no objection, because we have participated in award restructuring program for the baking industry.

10 The baking industry was in there, just given a name change and alteration to that ward. I think we could find ourselves in a situation where some people entered a traineeship. I'm not saying that there is but we could find ourselves in a situation where they entered a traineeship whilst they were employed under the Baking Trades Award  
15 and then it was changed to the Baking Industry Award as part of the restructuring program, so I do not think we should disenfranchise those people.

20 That award will be operative from the same operative date as the restructuring award which is the first full pay period on or after 25 November.

MR WATSON: It's actually on and from 25 November, commissioner.

COMMISSIONER: On and from, is it.

25 MR WATSON: Yes, I felt the same as you but actually, on reading the date of operation of the award variation, it's actually on and from 25 November 1996.

COMMISSIONER: Right. Well, that's going to be the date. I'll hand down a written decision in due course. Thank you.

**HEARING CONCLUDED**