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## **TRANSCRIPT OF PROCEEDINGS**

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O/N 9952

### **TASMANIAN INDUSTRIAL COMMISSION**

#### **COMMISSIONER P.C. SHELLEY**

**T No 11086 of 2003**

#### **CARRIERS AWARD**

**Application pursuant to the provisions of section 23(2)(b) of the Industrial Relations Act 1984 by the Transport Workers' Union of Australia to vary the above award re to delete and replace Clause 8 Wage Rates Division B**

**HOBART**

**9.30 AM, THURSDAY, 27 NOVEMBER 2003**

**HEARING COMMENCED**

**[10.00am]**

PN1

THE COMMISSIONER: This is a continuation of hearing. Do we have any changes in appearances?

PN2

MR M. WATSON: Yes, Commissioner. I appear for the Tasmanian Chamber of Commerce and Industry today.

PN3

THE COMMISSIONER: Thank you. Well, it may not, in fact, technically be a continuation. I think we discussed it off the record. Was that the case, Mr Cook, do you recall?

PN4

MR COOK: I was just thinking the same thing before you came in, Commissioner. I am not exactly sure.

PN5

THE COMMISSIONER: In case it wasn't on the record last time, we might take an appearance from you as well.

PN6

MR M. COOK: I appear for the Transport Workers Union of Australia.

PN7

THE COMMISSIONER: Thank you. We will hear from you then, Mr Cook.

PN8

MR COOK: If the Commission pleases. This matter is essentially about the differences that the TWU has between State awards and Federal awards and, essentially, we seek to have the State mirror the Federal. On 23.9.2003 the union wrote to the Acting Registrar pursuant to section 23(1) of the Act seeking to vary clause 8 of the award, wage rates division B. It is my understanding that a system of wages board has existed, or was established in 1982 with the Carriers Industrial Board being one of them. Within the Carriers there was a separate classification and pay-rates section for refuse collection transport and disposal which, in the number of classifications and wage rates, were reflected from 1.8.1982, the same as then Transport Workers Industrial Commercial and Domestic Refuse Award 1978, an award of the AIRC.

PN9

As has been the case with a number of Tasmanian awards, under the previous administration, that is, the union's administration, they were not kept up to date. Since that time the classification has gone from three to seven in the Federal award, while staying at three in the division B of the State award. There has also been a restructuring of the wage rates and the introduction of an industry allowance which now means that there is a substantial difference between the Federal and State awards. I have just got some exhibits that support the argument just put. There is a copy of the original Carriers

Industrial Board Award, there is the old refuse award and then there is the current wage rates for 2003 with the Federal.

PN10

THE COMMISSIONER: Thank you. We will give them some exhibit numbers. We will mark the Carriers Industrial Award as A1.

#### **EXHIBIT #A1 CARRIERS INDUSTRIAL AWARD**

PN11

THE COMMISSIONER: We will mark the document that is marked 2 as A2.

PN12

MR COOK: That is the Transport Workers Industrial, Commercial and Domestic Refuse Award.

PN13

THE COMMISSIONER: Yes.

#### **EXHIBIT #A2 TRANSPORT WORKERS INDUSTRIAL, COMMERCIAL AND DOMESTIC REFUSE AWARD**

PN14

THE COMMISSIONER: We will mark the one that is marked 3 as A3, and that is the Transport Workers Refuse, Recycling and Waste Management Award of 2001.

#### **EXHIBIT #A3 TRANSPORT WORKERS REFUSE, RECYCLING AND WASTE MANAGEMENT AWARD 2001**

PN15

MR COOK: Without going into too much detail, if you just turn to the first page of exhibit 1, clearly, it shows at the bottom there is only three classifications for drivers and then there is a leading hand. If you go to exhibit 2, that is replicated on the front page, so that is showing that the nexus, if you like, between the Federal and the State where they were mirrored. Exhibit 3 shows the classifications that now exist under the Refuse, Recycling and Waste Management Federal Award, which goes through to seven classifications.

PN16

The union believes that the TIC wage rates should as closely as possible reflect those of the AIRC. The TCCI has indicated a conditional support to this application, as indicated at the hearing on 14.11.03 and I am assured that the Tasmanian branches, the ARTIO, are supporting the application. Following submissions from the TCCI, the union has redrafted the draft order in a form that I understand is acceptable to the Tasmanian Industrial Commission. I have

a copy of clause 29 of the Transport Workers Refuse, Recycling and Waste Management Award 2001 and the current amount appears in a previous exhibit already handed up.

PN17

THE COMMISSIONER: We will mark that document A4, which is the Transport Workers Refuse Award 1998.

#### **EXHIBIT #A4 TRANSPORT WORKERS REFUSE AWARD 1998**

PN18

MR COOK: On 28.8.2003 the union faxed Andrew Cameron of the TCCI a copy of the proposed draft order, current Federal refuse rates and the accompanying letter giving the TCCI advance warning of our application. No fundamental objections were raised until we appeared in the Commission on the 14th where the from of the draft orders were questioned. As the TCCI has had ample opportunity to respond to our draft order. An operative date earlier than today is warranted. I have got the letter there that we sent through to Andrew Cameron as well.

PN19

THE COMMISSIONER: So what operative date are you seeking, 14 November, is it?

PN20

MR COOK: That is correct, yes. yes, I would respectfully request the Commission vary the award in accordance with the draft orders effective from the first pay period commencing on or after the 14th. If the Commission pleases.

PN21

THE COMMISSIONER: Okay. Now, do you have a new draft order, a revised draft order, in a form acceptable to the Commission?

PN22

MR COOK: Yes.

PN23

THE COMMISSIONER: Thank you. I will just have a look at that.

PN24

MR COOK: Sorry, I thought it had already been sent through, Commissioner.

PN25

THE COMMISSIONER: Well, it is not on file. I have only got the first one. And you have provided a copy of the revised document to the TCCI?

PN26

MR COOK: That is correct.

PN27

THE COMMISSIONER: Right.

PN28

MR COOK: I have only got a copy, Commissioner, of - it is a fax that was sent through to yourself from Bill Noonan, and that was dated 19 November 2003.

PN29

THE COMMISSIONER: Okay, well, I will check the file again.

PN30

MR COOK: Just because I have received it doesn't mean that it was necessarily sent through to you either.

PN31

THE COMMISSIONER: Never mind. We do now have a new draft order which will replace the one that was attached to the application, that is correct, and the difference is that the specialist industry allowance reflected in a column opposite the wage rates in the previous one has now been taken out of that and put as a separate allowance and now the rates just show the base rate, the safety-net adjustment and the weekly wage rate consistent with the format of other awards of this Commission. The figures have all been reduced by \$58.30.

PN32

MR COOK: That is correct.

PN33

THE COMMISSIONER: Right. Mr Watson?

PN34

MR WATSON: Thank you, Commissioner. First of all, I would like to apologise for the fact that we weren't at the hearing this morning. It is not our usual form to do that and it is not acceptable and it is not good enough. I have already apologised to Mr Cook privately but I will do that on the record now. This sort of thing shouldn't happen, as far as we are concerned. We do pride ourselves in getting to these hearings on time on the basis that we always get hearing notices from the Commission; so again I will just reiterate that I do apologise for that and I hope, as far as I am concerned, I will certainly be doing my best to make sure that this doesn't happen again.

PN35

THE COMMISSIONER: Thank you.

PN36

MR WATSON: In terms of the actual issue itself, I understand that on the last occasion this was on before the Commission there were discussions about the draft order, and the order that is presented now is agreed; so we advise that we do consent to the application and also, given the circumstances, we do also consent to the operative date as proposed by Mr Cook. It is not normally our position to agree to retrospectivity but I think, given the circumstances here, in particular, then we do.

PN37

As far as the merits are concerned, Commissioner, also the fact that this matter is actually part of the Federal award and there is also that nexus that has been established, then we do recognise that as part of the application. So we agree, as far as the application is concerned, in our view, it doesn't offend the wage-fixing principles nor the public interest. If it pleases.

PN38

THE COMMISSIONER: Thank you. Well, I indicate to the parties that the award will be varied in the manner sought with an operative date of the first pay period on or after 14 November 2003. A decision and draft order will be issue forthwith. The matter is adjourned.

**ADJOURNED INDEFINITELY**

**[10.10am]**

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