

TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984

T No. 3789 of 1992

IN THE MATTER OF an application by
the National Union of Workers,
Tasmanian Branch to vary the
Rubber Trades Award

re Scope, supersession and
savings, definitions, wage rates,
allowances, annual leave, hours of
work, second structural efficiency

COMMISSIONER WATLING

HOBART, 18 May 1992

TRANSCRIPT OF PROCEEDINGS

Unedited

COMMISSIONER WATLING: I'll take appearances.

MR P RICHARDSON: If the commission pleases, RICHARDSON P appearing for the National Union of Workers.

COMMISSIONER WATLING: Good. Thank you. In both matters, Mr Richardson?

MR RICHARDSON: I beg your pardon, Mr Commissioner, yes, in both matters.

COMMISSIONER WATLING: Right.

MRS H. DOWD: If the commission pleases, I appear on behalf of the Federated Clerks' Union of Australia, Tasmanian Branch, DOWD, H.J.

COMMISSIONER WATLING: Thank you.

MR P. GRIFFIN: Mr Commissioner, I appear on behalf of the Shop Stewards and Allied Employees' Association, Tasmanian Branch, GRIFFIN P.

COMMISSIONER WATLING: Good. Thank you very much.

MR S. CLUES: If it pleases the commission, I appear on behalf of the Tasmanian Confederation of Industries, CLUES S.

COMMISSIONER WATLING: Thanks, Mr Clues. Now, Mr Richardson, if I can just start by saying we've got your application but the application is more in line with the claim. What's the application for, the second structural efficiency increase, the 2.5, the minimum rates adjustment; what's the application?

MR RICHARDSON: Yes, commissioner. Commissioner, perhaps if I attempt to briefly outline what the application 3789 of 1992 seeks to do, and perhaps in doing so foreshadow to the commission that perhaps a brief conference assisted by the commission amongst the parties would assist. The application which was lodged on the 30th of April this year by the union had with it a copy of the proposed set of draft variations we sought in the matter, and those variations were of a composite nature and would, in our submission, require a hearing today.

Essentially the application relates to a number of points. Firstly, to broadband all existing classifications consistent with the structural efficiency principles; secondly, to delineate between retail and manufacturing operations that are presently covered by the award, and move towards the provision of two new skill-based and integrated generic classification structures, as well as provide for the long-term potential for the development of more appropriate conditions of employment for the retail and manufacturing sector; thirdly, to provide for the second structural efficiency increase of \$10, \$12.50

or \$15 as appropriate, as available under the '89 state wage case principles, and sixthly, to facilitate enterprise-based negotiations at the workplace level, specifically by providing a number of award variations designed to afford greater flexibility at the enterprise level.

That is, in essence, what the union seeks as the applicant in the matter today, and I will be tendering shortly a revised draft order which reflects those points.

COMMISSIONER WATLING: So there is no application for minimum rates adjustments here, nor the 2.5?

MR RICHARDSON: No. I believe that the application which was originally lodged certainly went to the question or the point of the 2.5%, but the union does not seek that as part of today's proceedings, rather as part of further proceedings subject to a further application. If the commission pleases.

COMMISSIONER WATLING: Right. So, in essence, we are looking at broadbanding of classifications and the second structural efficiency increase and measures placed in the award to provide for greater flexibility of the enterprise level?

MR RICHARDSON: That is correct, commissioner.

COMMISSIONER WATLING: Right.

MR RICHARDSON: Commissioner, that being the case, the union would indicate that subsequent to lodging its application on the 30th of April it did correspond to all organisations bound by the award on the same day and attached a copy of the application that had been lodged to them, and sought that if they wished to discuss the matter to contact the union prior to the hearing.

Whilst I don't seek to make much of that point, I would seek to tender into the evidence a copy of the affidavit signed by Mr Strickland the Tasmanian secretary of the union. There is a copy and the original copy - two copies and the original - before the commission.

COMMISSIONER WATLING: Right. Mark this Exhibit R.1.

MR RICHARDSON: And that affidavit simply attests to Mr Strickland's status within the organisation, and that on the 30th of April this year he caused to be posted copies of the application that had been made by the union and lodged with the commission, and copies of that application were in fact served upon Mr K. Bacon of the Transport Workers' Union, Mr D. Hayes of the Australian Workers' Union, Mr D. Fry of the Federated Clerks' Union, Mr P. Griffin of the Shop and Distributive Allied Employees' Association, Mr J. Glisson of the Federation of Industrial Manufacturing and Engineering

Employees, Mr T. Abey of the Tasmanian Confederation of Industries, and Mr B. Hansch of the Transport Workers' Union.

So, at least in respect of the Transport Workers' they have received it twice. And I make nothing of the affidavit, other than to indicate that the parties were made aware of the union's intentions in our submissions at least prior to today's proceedings, and -

COMMISSIONER WATLING: So, you have had some discussions with the other unions, have you?

MR RICHARDSON: In terms of discussions, I can indicate that there was some two pieces of correspondence forwarded from the TCI, and that there were at least two telephone conversations between myself and Mr Clues; the last one being on early Friday evening, and that the outcome of the correspondence and those phone conversations is, as I understand, that there is a consent position at least in respect of the union's application and TCI.

Beyond that, I am only advised that there was a brief conversation between Mr Strickland and Mrs Dowd of the Clerks' Union some time late last week, but that as part of that discussion it was indicated by the Clerks' Union that they would not be consenting to the application as currently structured. Beyond that, I am not aware of - certainly no discussion with myself - and I am not aware of any discussion with Mr Strickland, and it is principally on that basis that we would seek a brief conference to establish where there are points of difference before proceeding on the record. If the commission pleases.

COMMISSIONER WATLING: Anyone opposed to that course of action?

MR CLUES: No.

COMMISSIONER WATLING: Mrs Dowd?

MRS DOWD: No.

COMMISSIONER WATLING: Mr Griffin?

MR GRIFFIN: Yes.

COMMISSIONER WATLING: You do oppose it?

MR GRIFFIN: I beg your pardon?

COMMISSIONER WATLING: You do oppose that course of action?

MR GRIFFIN: No, I am sorry, Mr Commissioner. I was -

COMMISSIONER WATLING: So you don't oppose going into -

MR GRIFFIN: I do not oppose it.

COMMISSIONER WATLING: Right. Thank you. We'll go off the record for a minute, thanks.

OFF THE RECORD

MR RICHARDSON: Commissioner, in going back on the record, could I simply seek to -

COMMISSIONER WATLING: Yes. Thank you, Mr Richardson.

MR RICHARDSON: Thank you, commissioner. Commissioner, we have had the benefit of conference and discussed a number of matters relating to the union's application, and during that conference the union tendered, or provided to the parties, a copy of an exhibit which I seek to formally tender.

COMMISSIONER WATLING: Right. We'll mark this Exhibit R.2, thank you, and that's everything contained therein of this document?

MR RICHARDSON: Thank you. If the commission pleases.

COMMISSIONER WATLING: Right. Any further comments? Well, we are going to adjourn now to enable further discussions to take place, and especially in relation to the clerical functions, and I think the parties fully understand what they are required to undertake when we adjourn.

I think there is a need to sort out this clerical situation once and for all in this area to see whether the work is just ancillary to the work that's being done, or whether there's just permanent straightforward clerical work being undertaken. Now we will reconvene this hearing on Wednesday the 27th of May to enable both applicants to continue their submissions. This matter is now adjourned until 10.30 on that day.

HEARING ADJOURNED

TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984

T No. 3789 of 1992

IN THE MATTER OF an application by the National Union of Workers, Tasmanian Branch to vary the Rubber Trades Award

re Scope, supersession and savings, definitions, wage rates, allowances, annual leave, hours of work, second structural efficiency

T No. 3815 of 1992

IN THE MATTER OF an application by the Federated Clerks Union of Australia, Tasmanian Branch to vary the Rubber Trades Award

re implement new structure for clerical classifications and first minimum rates adjustment

COMMISSIONER WATLING

HOBART, 27 May 1992
Continue from 18/5/92

TRANSCRIPT OF PROCEEDINGS

Unedited

COMMISSIONER WATLING: No alterations to appearances from the previous day's sitting? Right, Mr Richardson?

MR RICHARDSON: Thank you, commissioner. Commissioner, if I could seek to tender a revised set of draft variations sought by the National Union of Workers.

COMMISSIONER WATLING: Right. Well we can mark this R.3.

MR RICHARDSON: Commissioner, the revised set of draft variations encapsulates a number of elements. Firstly, there is a proposed alternative scope clause. I should indicate to the commission that in conversation with the TCI immediately prior to proceedings that what appears in the exhibit is subject to change again, and I will return to that later in my submissions. The proposed wage rates -

COMMISSIONER WATLING: Well do you want to make any changes to it off the record so we go through and we're talking about the one document?

MR RICHARDSON: That might be easier, yes.

COMMISSIONER WATLING: Yes, we might go off the record thanks.

OFF THE RECORD

COMMISSIONER WATLING: Mr Richardson, I understand you want to seek leave to vary application 3789 of 1992.

MR RICHARDSON: That's correct, commissioner. The union seeks to vary its application insofar as it only seeks to progress the second structural efficiency increase available under the 1989 state wage case.

COMMISSIONER WATLING: Any objections to the variation of the application? No objection. There being no objection, it is granted. I understand the Federated Clerks Union wishes to amend their application 3815 of 1992. Mrs Dowd?

MRS DOWD: Yes, Mr Commissioner. The Federated Clerks Union would like to amend application T.3815 of 1992 to have access to the second structural efficiency adjustment in accordance with the wage fixing principles.

COMMISSIONER WATLING: Good, thank you. Any objection to the variation of that application? No objection, leave granted. Mr Richardson?

MR RICHARDSON: Thank you, commissioner. Commissioner, prior to adjourning into conference the union tendered a new draft set of variations which has been the subject of some amendment in conference.

COMMISSIONER WATLING: Right, exhibit R.3, that is.

MR RICHARDSON: That's correct. And also during the conference the union tendered a further document, which is the proposed classification structure, and I would seek to have that entered in as an exhibit.

COMMISSIONER WATLING: We'll mark that exhibit R.4.

MR RICHARDSON: Thank you. Commissioner, throughout the conference today and previous conferences which the commission has attended, the commission has become aware of a number of matters of difference between the parties. I can indicate to the commission for the record that those differences have been resolved and that the matter is now progressed on the basis of consent.

If I could summarise the changes sought to the award by the National Union of Workers so as to access the second structural efficiency increase and as contained in the amended exhibit R.3, the parties have proposed a variation in the existing scope clause so as to make it clear that retailers of rubber tyres fall within the scope of the Rubber Trades Award and that further such work covered by the Rubber Trades Award does not fall within the scope of the Automotive Industries Award. A corresponding application to vary will be lodged this afternoon by the National Union of Workers to seek an amendment to the scope of the Automotive Industries Award.

The parties have looked and agreed upon a number of measures designed to assist in the implementation of the structural efficiency principle and greater flexibility at the work place. They include a variation to the existing annual leave provisions to allow for greater flexibility in the timing and taking of annual leave between an employee and his or her employer; the ability to work ordinary working hours on a Saturday and/or Sunday, subject to certain provisions that are contained at page 8 of the amended exhibit R.3; the ability to stagger meal breaks to meet operational requirements and tea breaks to meet operational requirements; a variation to the contract of employment clause to allow for an employer to direct employees to work within levels of their skill, competence and training and; finally, as contained in a proposed new clause 35 with the title 'Structural Efficiency', the parties have given a number of commitments towards award modernisation, work place consultation and a proposed new classification structure.

That classification structure is contained in exhibit R.4. The structure will be the subject of discussion between the parties in the period between now and 16 June. It is intended in further proceedings before the commission to, in accessing the 2.5% available under the August state wage case decision, to insert that structure with any amendments as necessary into the award and within the definitions clause of the award.

Without going to the contents of exhibit R.4 in any detail or great detail, it proposes some six levels of tyre retail worker with the capacity for a further level, level 7 which requires further discussion. The structure is integrated, that is that is incorporates the variety of functions performed in tyre retail establishments from tyre fitting to sales to clerical work to work performed by tradespersons, such as wheel aligners and so on and provides a career path which, in the NUW's view, is consistent with the principles, is realistic and reflects the needs of the establishments covered by this award. It's the intention, as I've said, to seek to insert that structure in the award in a period of two months.

Mr Commissioner, the union would seek the issuing of variations to the Rubber Trades Award in the form of the amended exhibit R.3 and would seek an operative date being from the first full pay period commencing on or after the date of today's hearing, 27 May. If the commission pleases.

COMMISSIONER WATLING: Good, thank you. Mrs Dowd?

MRS DOWD: Mr Commissioner, the Federated Clerks Union supports the submission by the National Union of Workers in relation to the variations to conditions clauses in the Rubber Trades Award. We tender as an exhibit the correct wage rates incorporating the second structural efficiency payment for the clerical division.

COMMISSIONER WATLING: Mark this D.1.

MRS DOWD: the Federated Clerks' Union has indicated to the TCI and the National Union of Workers that we are not really happy with the proposed classification structure R.4, but we have reluctantly agreed to it, but we wish to have it on record that we will not be held to this in any future discussions or negotiations with the TCI for relativities and tasks for clerical employees. If the commission pleases.

COMMISSIONER WATLING: Right. And you endorse the other amendments put forward in Exhibit R.3?

MRS DOWD: Yes, we do, Mr Commissioner.

COMMISSIONER WATLING: Thank you. Mr Clues?

MR GRIFFIN: Excuse me, Mr Commissioner -

COMMISSIONER WATLING: Mr Griffin, sorry.

MR GRIFFIN: - I'd mention the fact that we are - on behalf of SDA - are in support of the proposal put by Mr Richardson of the NUW. However, in document R.4 we do have some concern in view of the relativities as far as the basic counter sales person is concerned.

I do understand that these sales perhaps are in most cases, if not all, peripheral to their other duties. However, I would like to make note on record, or written on the record, that we would agree with this structure in that these relativities are confined to this award, or proposed award, or in this industry, and certainly would not have reflection in any negotiations in any other awards, most notably the Retail Trades Award.

COMMISSIONER WATLING: I just note that - and you might take it on board - that I am not actually endorsing the structure at this stage, and if there are any problems with the structure then maybe you need to meet prior to the next hearing to look at those issues. But I take on board your preliminary comments on this point, but I am not actually determining the structure today, I am actually determining that it is part of your program to examine the structures, which I take it we will hear argument on on the next occasion when we come back.

But I take on board your preliminary comments at this stage. But I am not enshrining those levels as contained in R.4 today, I am just looking at the fact that you are going to discuss this as part of the program.

MR GRIFFIN: Well, Mr Commissioner, I just thought it was pertinent that I make those comments at this stage.

COMMISSIONER WATLING: Oh, yes, that's fair enough.

MR GRIFFIN: Thank you.

COMMISSIONER WATLING: Mr Clues?

MR CLUES: Mr Commissioner, we've appeared on this matter before you on a number of occasions now, that's at least in relation to the second structural efficiency increase. The parties are in a position whereby they have reached a consent position. The variations that arise are those that have been explained in some detail by the NUW, and it would be merely a reiteration of his submission if I were to delve in those in some detail, other than to put on the record that the broadbanding increases that are identified in the

supplementary payments column after the over award payments that TCI is happy with the variations that pertain to flexibilities.

We believe there are a number of significant variations to justify the awarding of the second stage structural efficiency increase. That the application that is before you today, as has been recognised by the parties, is a part of an ongoing process in the review of this particular award, and there are further discussions and negotiations that are to occur between the parties in relation to the 2.5% wage increase and the implementation of the minimum rate adjustments. Part of those discussions will pertain to the implementation of a new classification structure.

I believe that today, having been afforded the opportunity of an adjournment, the parties have reached an element of agreement, and that agreement is reflected in the NUW exhibit that outlines the classification structure. It may need some minor modifications, but in large we believe that we have reached a consent position. I would contend that the application before you and the exhibits that have been tendered are consistent with the wage-fixing principles and do not offend the public interest. The TCI has no difficulty in accepting the operative date as being the first pay period on or after today's date.

In relation to the comments made by the clerks, it is good that the parties have been able to reach agreement, and the TCI's position in relation to the clerical structure and the relativities attached thereto is that we will examine each award and in examining each award we will determine what we believe to be an appropriate position pertaining to clerks, and we are not holding ourselves fast to any particular structure for clerks or any particular relativities that may be associated with that classification structure.

In relation to comments made by Mr Griffin it is really the same position that the TCI wouldn't be seeking in any particular award to have established relativities in one award automatically apply to that of another. If there is merit in the argument of relativities applying for a particular classification structure applying to another award, then we'll examine that. Subject to any questions that the commission may have, that concludes my submissions.

COMMISSIONER WATLING: Good. Thank you. Any further submissions in reply? No further submissions. I can indicate then to the parties that I will endorse this award being varied to reflect the second structural efficiency increase in line with the amended draft order in R.3.

I will - I have noted - that you have set forth a program for me in awarding this matter. I will reconvene a hearing on the

16th of June - in fact, I will reconvene these applications on the 16th of June - to examine whether or not you've finalised the program for this award, and I understand that I may have to deal with applications for the 2.5% increase at the same time if they are so lodged. But, in granting this part of the application, I will reconvene on the 16th to hear submissions on the finalisation of the outstanding issues. Thank you for your participation. This matter is now adjourned to the 16th.

HEARING ADJOURNED