



TASMANIA

Tasmanian Industrial Commission

Industrial Relations Act 1984

T No. 10095 of 2002

IN THE MATTER OF an application by the Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union to vary the Metal and Engineering Industry Award

Re: inserting in Clause 30 – Special Rates a new paragraph: First Aid Allowance, and inserting in Clause 8 – Wage Rates, a new subclause 6

2002

TRANSCRIPT OF PROCEEDINGS

UNEDITED

**(WOULD PARTIES PLEASE READ THIS TRANSCRIPT CAREFULLY)
(ANY QUERIES SHOULD BE DIRECTED TO THE COMMISSION WITHIN 14 DAYS)**

HEARING COMMENCED 10.30am

COMMISSIONER: I'll take appearances.

MR P. BAKER: Sir, I appear on behalf of the applicant organisation, P. BAKER.

5 COMMISSIONER: Thanks, Mr Baker.

MR P. MAZENGARB: If it pleases the commission, PAUL MAZENGARB representing the Tasmanian Chamber of Commerce and Industry Limited.

COMMISSIONER: Thanks, Mr Mazengarb. Yes, Mr Baker?

10 MR BAKER: Thank you, sir. This application – the two applications arose out of a review by my office of the award and I should indicate to you that we have attempted to have a discussion with the TCCI but unfortunately the way things are that was reduced to a telephone conversation.

15 It's my intention this morning to put on the record the substance of the applications before you and I understand the TCCI will respond to those matters in due course away from the proceedings here today, so that we could have a discussion, if you like, sir, off the record. I suppose if I dealt with the easy one first. What we're seeking to do is actually include a first-aid allowance in the award. The award in fact is deficient. It doesn't contain a first-aid allowance as such and I'm unsure as to the reasons why it does not.

20 Given the nature of the industry, we felt that it was appropriate that an allowance of such be including into the award and I will have further discussions with Mr Flood of the TCCI in respect of the incorporation of an allowance in the award. The allowance of course, sir, would only be paid to an employee who is appointed by the employer to render first aid and secondly, of
25 course, sir, the person who is appointed must hold an appropriate qualification.

The second matter which is the basis of the application before you today deals with, I suppose one could say, the changing face of qualifications and of work as we know it. Up until a few years ago, sir, people who sought post trade
30 qualifications generally achieved those qualifications at work. They were a full-time employee of a company and they chose to go off to, as it was the old technical colleges before they became TAFE, and they would do additional courses of study. They invariably were devoted towards the associate diploma or in those days, sir, it would have been known as a certificate of technology. We've come away from that and moved into associate diplomas and now we
35 have advanced diplomas.

In addition to that, there is a range of qualifications that are available again, sir, at the post trade level which can be completed in a classroom environment away from the workplace and indeed all the qualifications, that is, as I've listed them, the advanced diploma that apply and certificate IV although it is

40 somewhat more restricted as far as its application in a classroom environment
is concerned but nevertheless, it can be achieved in a classroom.

You can actually achieve a certificate IV diploma or advanced diploma in a
classroom as opposed to the concept that existed years ago where it was a
combination of work experience and a qualification. Indeed, sir, in the old
45 Metal Industry Award where it spoke about people with an advanced diploma
or as it was in those days, a certificate of technology, the appropriate
qualification level was described in the following terms, that is, a person held a
certificate of technology and had four years of experience as an adult in the
workplace.

50 That phrasing has gone and it's gone, sir, because people now talk about
competencies, competencies in the performance of tasks and of disciplines of
work and as a result of that, people now enter the workplace by one of two
ways. They either obtain a secondary education and then they proceed to the
workplace and they achieve a qualification, be that as a trades certificate, a
55 diploma or as indicated here, an advanced diploma. Alternatively, having
completed their secondary education, they then proceed to obtain a
qualification at the relevant TAFE college and that qualification may well be,
as I've indicated there, a certificate IV outcome, a diploma or an advanced
diploma and then the individual then goes off to find employment.

60 So, they turn up at the employer's door and say, I have an associate diploma in
a relevant engineering or scientific discipline and the employer says, I'm just
the person I'm looking for but the employer is then faced with a dilemma as to
what do I pay this person because, sir, if you have a look at the award, the
award talks about – and if you go through the qualifications as listed in the
65 award, there are exact pay rates. There are pay rates specifically for persons
who hold certificate IV qualifications, diploma qualifications and/or advanced
diploma qualifications.

Certainly, sir, there is an argument as to whether or not the person is able to
fulfil the criteria at the respective level because of the ability or inability of the
70 person to perform the tasks at hand. There is this quandary as to where the
person sits in the pay structure and what the application before you today seeks
to do is to provide a series of entry points for a person who may come straight
from a TAFE college and seeks the employment in the metal and engineering
industry, or they may have limited experience and this application before you
75 today seeks to do that.

If you take, at certificate IV or the diploma level, somebody who has that
qualification but no work experience, would in fact receive 77 per cent of level
13 in the award and progressively would go through. If they arrived on the
doorstep with one year of employment in the industry, they would receive 85
80 per cent. Or alternatively, sir, if they commenced work with the employer and
was there for four years, they would progressively work through the scale. So,
on commencement they would received 77 per cent of level 13; after one year
85 per cent; after two years 96 per cent and after they'd been there for three

85 years, they have three years of work experience together with the qualification,
they would be paid one hundred per cent of level 13 of the award rate.

Sir, the same thing applies at the advanced diploma level, although having a
look at the scale, I must admit I've just spied it out of the corner of my eye, at
level 4, I notice they receive two hundred per cent of level 15, but in fact that
should be one hundred per cent. I will have to have a word with Sue about that.
90 The same concept, sir, applies there.

COMMISSIONER: We'll amend the application accordingly, shall we?

MR BAKER: Accordingly, sir, yes. So, it should read one hundred per cent
of level 15.

COMMISSIONER: I take it, without comment, you accept that proposed
95 amendment, as an amendment only, Mr Mazengarb?

MR MAZENGARB: It was certainly a question I was going to raise because
it came to the corner of my eyes when we were proceeding through the
explanation provided by Mr Baker. I accept that without any hesitation,
commissioner.

100 COMMISSIONER: Thank you.

MR BAKER: Sir, this is the basis of the application. This clause in fact, sir,
is a direct take out of the federal Metal, Engineering and Associated Industries
Award. So, it already applies to companies who are respondent to the federal
award. What we seek to do therefore is to reflect a similar provision for
105 employers who are engaged under the state award. It provides no increases in
wages for employees nor does it seek to remove wages. What it does seek to do
is to not only clarify the situation but to put in place a level of payments that
are commensurate with the relevant experience of employees who enter the
industry with qualifications and subject to any comments by yourself, sir, I'd
110 close my submission there.

As I indicated at the outset, there will be some further discussion with the
TCCI in respect of both matters. I just place on the transcript, it is imperative
that we actually address this issue because there's this and a couple of other
matters that we need to tidy up as far as the application of the award is
115 concerned in the state award areas.

COMMISSIONER: Thanks, Mr Baker. Just one question from me, you said
that at the present moment if someone wants to obtain qualifications in the
industry after secondary education, there was an A and a B – they're my terms,
A and B. The second one was, the person goes to the TAFE college and gets a
120 qualification and presumably that's when they come to look for work after that,
that's when this application comes into play but prior to that, is that where a
person goes to work and does an apprenticeship or traineeship or what? The
first part.

125 MR BAKER: In the first instance, it would be the traditional way of doing it.
That is, you'd get a job and then you'd do the qualifications while you're at
work. So, this then would have no relevance at all.

COMMISSIONER: Yes. And the award already provides for that.

130 MR BAKER: Yes. What this does, it actually provides for somebody who
goes to TAFE and does an advanced diploma in mechanical engineering, for
example.

COMMISSIONER: Yes, thanks, Mr Baker.

135 MR BAKER: There is just one thing that unfortunately I forgot about when I
made this application but I will write to the TCCI about this as well and that is
the issue of apprentices and competency based results because the award itself
at the present time provides for years of service, years of achievement or years
of attainment, first, second, third and fourth.

140 Now, the system has been varied to be a competency based scheme. In theory,
somebody who is at TAFE studying an apprenticeship could actually complete
the apprenticeship in two, three years. I need to actually have some discussions
with Mr Flood of the TCCI about that as well because that needs to be
addressed, particularly as we have young people these days who actually do
traineeships and at the end of the traineeship they then proceed to do an
apprenticeship and very often they are credited with the first year of the
apprenticeship but that's for another day.

145 COMMISSIONER: Thanks, Mr Baker. Yes, Mr Mazengarb?

150 MR MAZENGARB: There hasn't been an opportunity for us to have in-depth
discussions along the lines as outlined today by Mr Baker in relation to the
support for his claim. That being the case, we haven't had an opportunity to
canvas our members who potentially will be affected by this application being
made by the union.

155 In light of that, I would seek that this matter be adjourned for the purpose of
use being able to obtain the transcript of the proceedings, for that to be
forwarded to the workplace relations adviser from the TCCI who will have the
carriage of this matter. As indicated by Mr Baker, that will be Mr Flood and
once we receive that, we will then contact our members and ask their views.

160 I repeat my request, that the matter be adjourned for that purpose. I wouldn't
imagine we would need any more than four to five weeks. We certainly don't
want to delay the matter but certainly we do need to go out and seek the views
of our members as I've indicated. That being the case, I think if the
adjournment is granted, or even if it isn't granted, I think it would be
appropriate if Mr Baker actually addresses the commission relative to the
union's position as the applicant relative to operative date. There's been no
mention of operative date during this morning's proceedings. I think it would

165 be appropriate now to actually have an indication from the applicant as their
intention relative to that particular matter. If the commission pleases.

COMMISSIONER: Yes, thanks, Mr Mazengarb. Before I say anything else,
what do you say about the operative date, Mr Baker?

170 MR BAKER: Well, I take note of the views of the commission. As is the
normal practice, it would be from – unless of course there are unusual
circumstances, normally it is from the date of decision and that would be the
way this matter would proceed, I would think.

COMMISSIONER: Thanks, Mr Baker. We'll just go off the record for a
minute, thanks.

OFF RECORD 10.47am

175 **ON RECORD 10.49am**

180 COMMISSIONER: Yes, thanks for that, gentlemen. This matter will be
adjourned now and resume at 10.30am on Wednesday 22 May. I say 10.30 but
if the parties want it earlier, just advise my associate and we will have it earlier
on that day. I note that there are quite some weeks between now and then and I
hope that the parties are able to advance this matter amongst themselves in the
meantime because after that date there is a restricted time for when I can deal
with it and I would like to be able to close it because my associate would also
like to consolidate the award at the same time, which would be acceptable to
all parties, I presume.

185 Thank you. This matter is adjourned.

HEARING ADJOURNED 10.50am