

TASMANIAN INDUSTRIAL COMMISSION
Industrial Relations Act 1984

T Nos 5574 and 5576 of 1995

IN THE MATTER OF applications by the
Automotive, Food, Metals, Engineering,
Printing & Kindred Industries Union to vary
the Shipbuilders Award

re restructuring of award and second
minimum rates adjustment

PRESIDENT

HOBART, 14 December 1995
continued from 14/11/95

TRANSCRIPT OF PROCEEDINGS

Unedited

PRESIDENT: Any changes in appearances?

MR S. WALSH: Mr President, WALSH STEVEN, appearing on behalf of the Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union.

PRESIDENT: Thank you, Mr Walsh.

5 **MR T. BENSON:** Mr President, TONY BENSON, representing the CFMEU Tasmanian Branch.

PRESIDENT: Thank you, Mr Benson.

MS THOMAS: No change in appearance.

10 PRESIDENT: Very good. Well, we received a letter from Mr Baker, Mr Walsh, telling us he is not ready to proceed. You probably received a copy of that letter.

MR WALSH: I have.

PRESIDENT: And you've received a copy of it through the offices of the commission, Ms Thomas.

MS THOMAS: Yes.

15 PRESIDENT: What do you have to say?

MR WALSH: Mr President, well, I understand there have been some discussions, or that Mr Baker did advise you that he would be unavailable to attend this hearing. I picked it up at a very late stage.

PRESIDENT: Yes.

20 MR WALSH: The correspondence, I believe, is fairly self-explanatory. Clearly, one of the issues which we have got concern with is the time off in lieu provision and as is set out in the correspondence, we would be proposing that this matter be deferred until such time as there can be discussions with the TCCI in order to try and finalise this modernisation process.

25 PRESIDENT: Yes. All right, Mr Walsh. Anything to add to that, Mr Benson?

30 MR BENSON: Yes, Mr President. From the CFMEU's point of view, we consider it to be of paramount importance that the employees covered by this award have input into the restructuring process. At this stage, we have not been able to take these matters to our members, having only received the proposed amendments by the TCCI on 7 December, sir.

PRESIDENT: Yes. All right. Thank you. Ms Thomas?

35 MS THOMAS: I do have a submission to make, Mr President. As you will be aware, Mr President, since the last hearing of this matter, the Chamber has submitted to the unions party to the Shipbuilders Award a range of issues it would like to see addressed as part of the ongoing award restructuring exercise in this award.

40 These issues were forwarded to the unions, under cover of correspondence, dated 7 December 1995. The issues, as Mr Baker points out in his correspondence to you on 13 December, went to a number of new facilitative provisions we were seeking, together with the amendment of a number of clauses which need to be made, given recent changes to legislation.

5 The issues were put forward on a 'without prejudice' basis and it is therefore disappointing to note that Mr Baker has discussed at least one of these issues with you prior to today's hearing, without first discussing it with the Chamber. I have also been made aware of an error which appears in subclause 8(f) of the award which also needs fixing and I thought I would draw that to your attention, Mr President, because that will need fixing. It goes to the calculation of the dunnaging hourly rate and it says: In addition to the hourly rate - it talks about -

PRESIDENT: Is this at the top of page 7?

MS THOMAS: It is in that paragraph:

10 *- shall be for each hour worked -*

And when you go through with that calculation, you don't end up with an hourly amount. You end up with a weekly amount. So, that needs to be adjusted so that you come up with an hourly amount that you add onto the dunnaging rate.

PRESIDENT: Right. And you've raised that with the other side?

15 MS THOMAS: No, I just mentioned that to Mr Benson this morning.

PRESIDENT: For that purpose, of including the other side too?

MS THOMAS: Yes.

PRESIDENT: Probably, you're not seeking to have something done about it right now?

20 MS THOMAS: No, not at this stage. We would prefer to discuss the full range of issues with the unions.

25 Also disappointing is Mr Baker's statement that no verbal communication with his office had been made by the Chamber. In our letter of 7 December, the Chamber clearly extended an invitation to Mr Baker to arrange a meeting to discuss the issues we had put forward. Mr Benson was kind enough to respond to our invitation, however the meeting could not proceed as Mr Baker had advised the Chamber that he would not be able to meet with us until April of next year.

PRESIDENT: Sorry. Would you run that by me again. Was that in relation to an invitation to discuss these matters?

30 MS THOMAS: The issues that the Chamber had put forward to the unions.

PRESIDENT: April next year?

MS THOMAS: Yes, that would be his preference.

PRESIDENT: But we had a December finalisation date.

35 MS THOMAS: Yes. Mr Baker did respond in writing to us and in that he indicates his preference would be for a meeting date in April.

As I mentioned earlier, the Chamber is disappointed with the response from the AFMEPKIU to date, given the Chamber's exercise of good faith in the minimum rates adjustment process. As part of this process, the parties have committed themselves to the award restructuring process and if I could refer you, Mr President, and the parties

to clause 12 of the award, the parties give a commitment to participate actively in the award restructuring process and if I could quote directly from paragraph 6, it says:

5 *Award restructuring shall be given its wider meaning and award restructure should not be confined to the restructuring of classifications but may extend to the review of other restrictive provisions which currently operate. To that end such restrictive provisions will be reviewed on an ongoing basis.*

10 The commitment is there for all to see. The Chamber is prepared, in good faith, to honour its commitment made under the award. It would be unfortunate indeed if the Chamber were left with no option but to make submissions to the commission at some time in the future, which might delay the continued implementation of the minimum rates adjustment process in this award.

We therefore seek, Mr President, that this matter be finalised today, the parties having previously agreed to the timetabling of this matter and the Chamber is prepared to proceed on that basis if the commission so desires.

15 If you do not accept the Chamber's submission on this point, I would submit that you relist the matter in early April of next year for final determination. If it pleases the commission.

PRESIDENT: Why early April, Ms Thomas?

20 MS THOMAS: Only that Mr Baker isn't available until April and I would seek a hearing date as soon as possible in April that would follow a meeting of the parties to the award. I think the onus is on Mr Baker to respond to our invitation. We have put up a range of issues that need to be addressed under the award, as we see it, and I think the commission's participation in the exercise is essential for this matter to progress in a timely manner.

25 PRESIDENT: Yes. I was wondering whether it might be more beneficial if we arrange some formal conference proceedings earlier in the new year.

MS THOMAS: The Chamber would be more than willing to participate in that exercise.

30 PRESIDENT: Yes. All right. We'll hear from Mr Walsh and Mr Benson. Sorry to put you in the hot spot, Mr Walsh.

35 MR WALSH: That's all right, Mr President. I really just want to respond on a couple of points that Ms Thomas made. I don't want to get involved in a points scoring exercise. I think there are two issues that I see. One is, that the correspondence was received from the TCCI on 7 December. Now, I don't know the background in terms of when this hearing date was set, however correspondence was not received in our office until 7 December. There was a letter sent the very next day, on the 8th, and I'm not aware of what Mr Baker's timetable is in the new year, but I will undertake to discuss that with him as soon as I possibly can.

40 I think in relation to the other point that needs to be made, is that there does need to be consultation with the membership, in terms of what is proposed by the TCCI and between 8 and 14 December, it has just not been possible, given that there are some significant proposals contained in the Chamber's correspondence which obviously would need further discussion.

45 In relation to the other point and the reference about participating actively in the award modernisation process, I hope there was no inference meant that the union

would not be honouring its commitment because I will say, on behalf of our union, that we will continue to honour our commitment as detailed in the various awards and as has been espoused in this commission previously.

5 So, there is no question of the bona fides of my organisation, in terms of participating in good faith. We will continue to do that and I will certainly take it upon myself to have discussions with Mr Baker in an effort to expedite this matter as quickly as we can.

PRESIDENT: Yes. All right, Mr Walsh. Do you want to add anything at this point, Mr Benson, because I would like to -

10 MR BENSON: Not really, Mr President.

PRESIDENT: No, I didn't think you would.

15 Well, I think April is just a little too far down the track actually, if what Ms Thomas said about Mr Baker's comments is an actual reflection of what Mr Baker really meant. April, as a date to start negotiations is just not good enough. What sort of time period do you think your people would need to get around the membership in the area to let them be acquainted with the propositions that have been put by the TCCI, if that is what you would envisage happening?

20 MR WALSH: To be quite honest, Mr President, I wouldn't know but I can undertake to give you some indication after I have some discussions with Mr Baker and again, I'm not sure what leave Mr Baker is having in the early part of the year.

25 PRESIDENT: Look, what I think we will do - I appreciate the problem in January. We'll fix a report progress hearing for the first week in February and then we can hear how the negotiations and discussions are going. I am inclined to accept the proposition put by the other side that we ought to be able to have this finalised in April. If we get things going early in February, or late January - is February 1 a reasonable date? It will be February 1, Mr Walsh, if you'll pass that on. We will list a hearing for February 1 at 10.30, a report back hearing and I would like to hear at that point how the negotiations are going with members on the part of the unions and if it is at all possible to have got around those discussions and include negotiations with the TCCI,
30 I would be delighted and that can bring things forward even further.

Does anybody have anything to say about that? Happy with that? I think that is the best way to go. We'll adjourn until 1 February.

HEARING ADJOURNED