

**TASMANIAN INDUSTRIAL COMMISSION**  
Industrial Relations Act 1984

T Nos 5574 and 5576 of 1995

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

re restructuring of award and insertion of  
second minimum rates adjustment  
respectively

PRESIDENT

HOBART, 3 November 1995  
continued from 27/10/95

Unedited

PRESIDENT: Any changes in appearances?

**MS J. THOMAS:** JENNY THOMAS appearing for the Tasmanian Chamber of Commerce and Industry in lieu of MR MARK WATSON and with me is **TERRY EDWARDS.**

5 PRESIDENT: Very good. Thank you, Ms Thomas. Well, we were going to hear from Mr Baker this morning on the form of the order, I believe.

MS THOMAS: Yes. I understand Mr Baker is still in Melbourne today.

PRESIDENT: Yes, I received a letter to that effect.

MS THOMAS: And I gather you have a draft order before you, Mr President.

10 PRESIDENT: Yes, one was faxed to me.

MS THOMAS: Which reflects the terms of agreement between the parties.

PRESIDENT: It might be a good idea if you tender your copy rather than me rely on this one, just in case.

MS THOMAS: All right. I shall do that.

15 PRESIDENT: We'll mark this T.1, Ms Thomas.

MS THOMAS: In terms of comparing the two documents, if you go to the last page, which refers to the definitions, we need to make a couple of minor adjustments that were agreed between Mr Edwards and Mr Baker, but are not reflected in the document you have.

20 PRESIDENT: Yes.

MS THOMAS: If we go to Level 2, the second last line, basic welding techniques - or the operating of elementary machinery. That's how it should read.

PRESIDENT: Very good.

25 MS THOMAS: Further down, in Level 3, third line, has effective measurement skills. Just add the 's' to make it plural.

PRESIDENT: Yes. And there's that correction to the rate for the use of the calculation with the apprentices?

MS THOMAS: Yes. That rate, \$413 -

PRESIDENT: It's \$413.40 rather than \$421.40?

30 MS THOMAS: Yes, that's right.

PRESIDENT: What about the headings over the Wage Rates in Clause 8 Part I. Minimum wage adjustment, should that, safety net adjustment?

MS THOMAS: Yes, it should be. Thank you.

PRESIDENT: Right. And they are the agreed rates?

MS THOMAS: Yes, they are. I might take you through what has occurred with the wage rates. They are agreed.

PRESIDENT: Very well, take me through them, Ms Thomas. I will be very interested to learn what the rationale is for these new rates.

5 MS THOMAS: Back in the original hearing of the first MRA in 1992, it was agreed that the MRAs would be implemented as follows; for the trades classification they would be increases of four, 6 months apart. For the non-trades classifications there would be six increases, 6 months apart. This is supported in an exhibit that was  
10 tendered at that original hearing before the Deputy President, I believe, and was marked Exhibit C.3 and I can hand a copy of that up to you.

PRESIDENT: Yes, thank you. We'll mark it T.2.

MS THOMAS: This was a document prepared by Martin Clifford of the CFMEU.

PRESIDENT: Yes.

15 MS THOMAS: You'll note, on the left-hand side, under the trades column, you have four increases and we have a circle around the four. In the far right-hand corner you have increases going up to 6, which are for the non-trades classifications. That was the agreement at the time.

PRESIDENT: Okay. Well, that was, as it's put, the target. What were the suggested adjustments?

20 MS THOMAS: Yes. Those figures are probably no longer applicable, but certainly it is just to indicate the number of increases that were agreed at the time.

PRESIDENT: Yes. So, how many increases have there been so far?

MS THOMAS: There has been one increase to date for both classifications.

25 PRESIDENT: And that amounted to how much, can you recall? It was supposed to be four at \$5.87 for the tradesperson?

MS THOMAS: It was \$5.90 for the tradesperson.

PRESIDENT: Yes. We've had one of those.

MS THOMAS: Yes. And for the non-trades classification C, we had one increase of \$18.30 and D, all other adults, \$20.40.

30 PRESIDENT: And the increase for the tradesperson on this occasion will be - was it \$7?

MS THOMAS: It will actually be \$6 and following thereafter will be two increases of \$5.90.

35 PRESIDENT: Right. Can I just mark those. And what are the increases that will occur in respect of the other levels?

MS THOMAS: Right. For the 78% Level 1 classification we have a second MRA increase of \$12.60.

PRESIDENT: That's current, right. That's proposed, rather.



MS THOMAS: Yes, this will be the second MRA. The third MRA will be \$12.60 and then following that will be three increases of \$12.50.

PRESIDENT: Right.

5 MS THOMAS: For the Level 2, 82% classification, we have second MRA increase of \$9.70 today.

PRESIDENT: Yes.

MS THOMAS: A further increase of \$9.70 for the third MRA.

PRESIDENT: Yes.

MS THOMAS: And then three increases of \$9.60 to follow.

10 PRESIDENT: Very good.

MS THOMAS: Finally, for the 87.4% Level 3 classification, we have a second MRA increase of \$14.20, a further increase of \$14.20 to follow and three increases of \$14.10.

15 PRESIDENT: Right. Has any thought been given to the operative dates of these other rates - proposed new rates?

MS THOMAS: It is agreed that they will be six months apart but that is of course based on application.

PRESIDENT: Yes, I follow that. But the agreement is for six months apart?

MS THOMAS: Yes, it is.

20 PRESIDENT: So, what happened in the interim, do you know? What happened in the period between the first MRA and -

MS THOMAS: Nothing has occurred. No applications have been made.

PRESIDENT: No applications were made.

MR EDWARDS: That's not quite right. There was one application.

25 PRESIDENT: Well this application was -

MS THOMAS: There may have been one application, but that didn't progress.

PRESIDENT: Yes. That's right. But we have two applications before us which were both lodged in 1995 and nothing else alive, to the best of my knowledge.

30 All right. Thank you. The agreed rates are set out as per the order with the adjustments - safety net adjustment rather than minimum wage adjustment?

MS THOMAS: You'll notice that the MRA increases of today aren't necessarily reflected in the supplementary payments column contained in the draft order before you. What is happening there is, the supplementary payments are actually being added to the base rate, in order that they be built up to the level that they should be.

35 PRESIDENT: Yes, I understand.

MS THOMAS: And any over-flow, flows into the supplementary payment column.

PRESIDENT: Yes. That's so. I follow that.

MS THOMAS: So, the application is in accordance with the principles and the act and we would submit that it be operative from the first full pay period to commence on or after today's date.

PRESIDENT: Yes. Was that an agreed date?

MS THOMAS: It wasn't discussed.

PRESIDENT: All right. One other question, before you conclude, Ms Thomas, under paragraph (f) dunnaging, I presume this is part of dunnaging. The second paragraph starts:

*This rate is calculated as one 1/38th of the sum of the weekly wage rate for classification A hereof plus a tool allowance of \$8.30 multiplied by 42.2 -*

I notice elsewhere that the tool allowance is \$11.50. What's the reason for the distinction between the two rates, do you know?

MS THOMAS: If I may seek some instruction here, Mr President. Mr Edwards might address you on that.

PRESIDENT: Yes. Mr Edwards?

MR EDWARDS: If I might address the commission, very briefly, just on that point. The \$8.30 is in fact a rate that was established by arbitrated decision of the then Deputy Chairman of Industrial Boards, Mr Robinson, and it relates directly to the types of tools that are required to be supplied by employees undertaking the task of dunnaging. Evidence was led at that time, and I conducted the case for the TCI, as we then were, that the only tool that were required in fact were a hammer and a chainsaw and the power tools are in a different category entirely. For those reasons, Deputy President Robinson arbitrated that the claim being advanced at that time by the then BWIU for parity with the compass tool allowance was inappropriate because of the nature of the tools required to be supplied.

PRESIDENT: Right.

MR EDWARDS: Now, that differs from the tool allowance which I think is mentioned elsewhere in the award, from memory, for apprentices because the apprentices are not apprentice dunnagers, they are apprentice ship's carpenters and/or joiners or ship's painters or shipwrights and for those reasons it is a higher rate than that for dunnagers. It is quite a deliberate strategy and it has a history attached to it.

PRESIDENT: And it has been adjusted appropriately with the -

MR EDWARDS: I have got no idea, Mr President, what appropriately means.

PRESIDENT: Well, in accordance with whatever application might have been made under, I take it, expense-related allowances.

MR EDWARDS: There have been no applications made, to my knowledge, Mr President, to increase tool allowances in this award since the arbitrated decision of the then, Deputy Chairman Robinson. It has a certain familiar ring.



PRESIDENT: Yes. Very good. One other query I have. In the apprentices provision, in the second paragraph, following the proviso:

*An employer who provides an apprentice with a kit of tools may deduct from the wages of the apprentice the tool allowance of \$11.50 per week.*

5 Is there any potential for confusion there, about an amount being deducted from wages as distinct from the allowance just simply not being paid? Parties may have a think about that because we will, I take it, be restructuring the whole award in due course.

10 MR EDWARDS: That is most definitely the case, Mr President. There is another live application before the commission from the AFMEPKIU, which will be addressed by the parties in the near future and the issue you raise can be addressed at that time. One could only conclude from the verbiage used in the award, that it is a deliberate thing, that the amount is deducted from wages. Whether that is appropriate or not, is a different question of course.

15 PRESIDENT: Yes. I just raise it for the parties' sake.

MR EDWARDS: It's something that I will take on board with further discussions with Mr Baker.

PRESIDENT: Very good. All right. Well, have you anything to say about this? Do you want to say anything about this particular application, Mrs Dowd?

20 MRS DOWD: The only thing I have to say, Mr President, is the fact that Mr Baker actually contacted me about 2 minutes before I was due to leave the office to attend this hearing, to say that a draft order had been submitted and it was an agreed matter between both Mr Edwards and Mr Baker. I believe that the variations that Ms Thomas actually put this morning were also agreed.

25 PRESIDENT: All right. Thanks for that. I don't know whether the rules of hearsay would get us very far on it.

MR EDWARDS: I'm quite prepared to go in the box, Mr President.

PRESIDENT: I'm sure you would be. All right. Thanks, Mrs Dowd.

30 Well, that concludes this particular part of the application. We have got some other areas to deal with. We are scheduled for 14th, to deal with the clerical stream. Is that correct?

MRS DOWD: That's correct, Mr President.

PRESIDENT: And we had to, on this day, fix another day to come back to look at restructuring as a whole. Are you in a position to say anything about that, Mrs Dowd?

35 MRS DOWD: The only thing I have to say about that, Mr President, is that no date was actually set for the further hearing.

PRESIDENT: No, it wasn't.

40 MRS DOWD: But it was actually said by Mr Baker that there were three sections that we were going through. There was the restructuring in relation to the first part, which was on today, with the draft order. The second part was the clerical

classifications to be integrated with what was done today and the third part was the conditions.

PRESIDENT: Yes.

MRS DOWD: But no dates have been set to actually attend to that, at this stage.

5 PRESIDENT: And the parties were going to furiously consult with each other in the next few weeks to come back to us with an agreed position in a matter of 3 or 4 weeks, or something of that order?

MRS DOWD: That is correct.

10 PRESIDENT: Is that news to you, Mr Edwards and Ms Thomas. You'd better consult Mr Watson.

MR EDWARDS: I will consult Mr Watson, when he gets back from leave, Mr President. He has obviously decided that I can consult furiously during the 3 weeks he is on leave and, nevertheless -

PRESIDENT: He is very generous. I thought he was most helpful.

15 MR EDWARDS: Optimistic in the extreme, would be my description, Mr President. We will do out utmost to meet that sorts of timeframes -

PRESIDENT: Well, when we come back on 14th -

20 MR EDWARDS: I think then we could have a date. The reason I'm hedging is a little - is because Mr Baker is not here. He needs to be a player in this. We haven't discussed those dates. I wasn't aware that we needed to and I apologise for that.

PRESIDENT: No, that's all right. I just wanted to keep the thing moving because I don't want it -

MR EDWARDS: We don't want it to move too quickly, Mr President. These things have got to percolate over time.

25 PRESIDENT: This has been going on for a while. We will try and get it out of the road.

MR EDWARDS: Only for three years.

MRS DOWD: It's on the boil now.

MR EDWARDS: It just evaporates when it's on the boil.

30 PRESIDENT: Okay. Well, look, in respect of that draft order, I will approve it in the amended form. The operative date, the first full pay period on or after today's date. We will resume on 14th to take the order a little further. Thank you.

**HEARING ADJOURNED**