

TASMANIAN INDUSTRIAL COMMISSION
Industrial Relations Act 1984

T No. 5172 of 1994

IN THE MATTER OF an application by the
Shop Distributive and Allied Employees
Association, Tasmanian Branch for the
making of the Retail Pharmacy Award

COMMISSIONER WATLING

HOBART, 6 November 1995
continued from 10/11/94

TRANSCRIPT OF PROCEEDINGS

Unedited

COMMISSIONER WATLING: I'll take appearances please.

MR P. NOONAN: If the commission pleases, I appear on behalf of the Shop Distributive and Allied Employees Association, Tasmanian Branch, NOONAN, P.

COMMISSIONER WATLING: Thank you.

5 **MR D. PYRKE:** If the commission pleases, DARRYL PYRKE, appearing on behalf of the Salaried Pharmacists Association, Tasmanian Branch.

COMMISSIONER WATLING: Good. Thank you.

MR J. HAMPTON: If the commission pleases, I appear on behalf of Pharmacy Guild of Australia, Tasmanian Branch, HAMPTON, J.

10 COMMISSIONER WATLING: Good.

MR T.J. EDWARDS: If it please the commission, EDWARDS, T.J. I appear for the Tasmanian Chamber of Commerce and Industry.

15 COMMISSIONER WATLING: Right. Well, this application has been around now for some time. In fact, one year ago, I made the new award and in fact in a decision arising out of application T5172 of 1994 dated 11 November, 1994, nearly a year ago, this award was made.

20 Now, since that time, very little has happened. In fact, from where I sit, nothing has happened and I really want to see whether or not the parties are going to progress this matter, or whether I should take the necessary steps to repeal this award because of lack of interest of the parties. I think I would have to say, it's totally inappropriate that the commission make an award a year ago and was encouraged by the parties to do so on the basis that they wanted an industry specific thing and nothing has happened, a year later.

25 So, I take it that today we are going to progress this matter a little further, or we will take the necessary steps to move away from it. Who would like to report for starters, as to what has taken place in the passing of that time, a year later?

MR EDWARDS: There doesn't seem to be anyone too keen to get to their feet, commissioner, so I suppose I may as well go first.

30 Commissioner, I understand from your point of view it looks as if nothing has happened during the period you've mentioned and that's probably a fair observation from the bench. From where the parties sit however, there has been a considerable amount of work done on development of a new award, to the point which we would expect to be able to place a document in the hands of both unions next week, which would be a comprehensive draft of the new award, which would pick up a wide range
35 of issues that have been happening within Tasmania and on the mainland in respect of the pharmacy industry, if I can use that broad term.

40 The new document would embrace a wide range of changes to the existing Chemists Award. There'd be a new classification structure which would have a straight line structure dealing with both professional staff and the sales staff within the pharmacy. There would be a range of documentation which would go to what would justify advancement from one level to the next, not just the broad definitions, they are there as well, but in addition to those we've actually now been able to tabulate the training programmes that will justify advancement and what an employee has to do to move from one level to the next.

We've also taken the opportunity to bring together the conditions of employment in a way that overcomes the current duplication in the award specifically, but more specifically still, we are tailoring the award more than ever back to the retail pharmacy industry, so that it more properly reflects the working environment that is required in that particular industry and in that regard we've had significant input from all states of Australia and taken account of what is happening in all other states including the very recently made consent award in Western Australia, which I think was made only last week and we've been waiting on some of those developments to finalise our deliberations.

10 Having said all of that, we, for our part, don't believe it would be appropriate for the award to be rescinded through lack of interest. There is certainly no lack of interest. It may, as I say, appear to the commission there's been nothing going on during the last 12 months and from where the commission sits, as I say, I think that's a fair observation. The reality is, a lot of work has been done and we would expect to in fact 15 be able to finalise the award in the fairly near future.

There is a commitment by the parties, as I understand it, to finalise the award. There certainly is from both the employer organisation's point of view and from my discussions with Mr Pyrke and Mr Noonan, I believe there also is from the union's point of view.

20 So, our report would be that there has been significant work done. There has been significant progress made and we would hope to be back before the commission in the fairly near future with some sort of consent document. If it please the commission.

COMMISSIONER WATLING: Any more speakers?

25 MR NOONAN: Yes, Mr Commissioner. We, from the SDA, would not like to see the award repealed. We would anxiously await the document that Mr Edwards has alluded to and I would go as far to say that I'd like to report back to the commission prior to Christmas on that document. If the commission pleases.

COMMISSIONER WATLING: Mr Pyrke?

30 MR PYRKE: Mr Commissioner, I've got nothing to add to what the advocates have said. We would certainly like to see the award stay there and we look forward with interest to receiving a copy of what the TCCI and the Pharmacy Guild have put together and indeed to ensure that, in particular, the definition of casual and part-time employment be sorted out because you might recall from previous hearings, we had an application to address that particular matter.

35 We would certainly be quite happy to see another hearing before Christmas. If the commission pleases.

COMMISSIONER WATLING: Mr Edwards, will the documentation also cater for photographic operations and if not, how and when will that be addressed?

40 MR EDWARDS: It does not, commissioner. We don't believe that's appropriate for the Retail Pharmacy Award. The question of where photographic laboratories goes is one, I guess, that is open to some debate. If I were to be asked to make an off-the-cuff call, I'd probably say, retail trades would be an appropriate destination.

COMMISSIONER WATLING: I'm not so much even thinking about the laboratories. I'm thinking about the fast processing?

45 MR EDWARDS: Yes, I call them, laboratories. I think they're generally called fast photographic labs, or something like that. I think we're talking about the same thing.

COMMISSIONER WATLING: Yes.

5 MR EDWARDS: My inclination is, that from knowledge, I don't think there are any actually conducted within retail pharmacies in the state. That's our current belief. That being the case, my suggestion would probably be retail trades. I'm saying that on the record, I know, but I don't wish to be held to it. It is something we haven't specifically determined but I am sure it will be part of the discussions, where we move this particular component out of the Chemists Award in the Retail Pharmacy Award and give that a life of its own. We then need to determine what we do with the balance of the Chemists Award, and that's one area that needs to be resolved.

10 COMMISSIONER WATLING: What about those pharmacies that may or may not be selling chance tickets?

15 MR EDWARDS: Well, again, that's something we intend to cover in our negotiations and try and finalise a position on that as well. I'm aware of the commission's view on that. You've made it known to us in the past in conference and on the record and it's certainly an issue that needs to be sorted out.

20 We think the way we've designed the award and the content of the award, that those issues will be clearly caught and determined. Not in a general sense, but so far as retail pharmacy is doing that work is concerned. We can do nothing in this award about what is happening in, say, newsagencies or other places that sell tickets of chance.

COMMISSIONER WATLING: No. That's another issue, I think, in newsagencies but it seems to be a growing trend where -

25 MR EDWARDS: We would have the view that here it ought to be inclusive. This award should cover everything that transpires within the four walls of a retail pharmacy.

COMMISSIONER WATLING: So, that may necessitate a variation to the scope?

30 MR EDWARDS: It could do, commissioner, yes, and if that's required, then that's what we will do. We don't run away from that, but I think it would be silly, from our point of view, to create an award for the retail pharmacy industry which did not cater for today's retail pharmacy industry and if that's a component of it, then I think we ought to be inclusive, not exclusive.

COMMISSIONER WATLING: I don't disagree with you on that. As long as - I'm sort of stirring the pot to make sure that you pick it up -

35 MR EDWARDS: I can assure the commission my notes from all the previous times these have all been raised are still here. They may be old, the ink faded a little, but they are nevertheless still there.

COMMISSIONER WATLING: How long do you think this process of negotiation will take?

40 MR EDWARDS: From our point of view, we will have a draft in the hands of both unions by next week. That is an absolute undertaking. How long they need to then go through the document will be a matter for them. We've already advised Mr Noonan today, of the foundation for our document and I think he's reasonably comfortable with the fact that we've used that as the foundation.

45 I imagine two or three weeks for the union to go through the document fairly carefully and then for us to get back together and thrash out whatever differences there are. I

would say we would be, sort of, mid December. It'd be a ball park guess. Unfortunately, these things always take longer than you guess. I mean, the reality is more likely to be, I suspect, mid January. I don't know what other people's leave arrangements are but it wouldn't affect mine. I really don't think I could say it would
5 be two or three weeks because I think I'd be telling you something then that I don't believe and I'm not inclined to that. I'm perhaps being a little bit conservative, but such is my want.

COMMISSIONER WATLING: Yes. So, just say for example, it goes ahead and you wish to pursue this matter and the award itself is not repealed through the inactivity,
10 then there will need to be an application lodged with the commission at some stage to repeal the Chemists Award. So, one would think that the operative date of the new award would coincide with the operative date to repeal the Chemists Award.

MR EDWARDS: I'm trying to remember exactly what's in the Chemists Award now. As you know, we've done this in a fairly piecemeal way. We had retail pharmacy, we
15 had the warehousing - pharmaceutical warehousing, which still does have some application, notwithstanding some flight from jurisdiction by one company and another one using another part of the state act.

COMMISSIONER WATLING: The Retail Pharmacy Award hasn't been made in its entirety though, has it? Sorry, the Wholesale Pharmacy?

MR EDWARDS: No. That's the point I'm making, commissioner. If we were to rescind the Chemists Award, it would leave the Pharmaceutical Wholesalers Award a little high and dry. It's in the same position as this one.

COMMISSIONER WATLING: It may have to happen that way, because that was made over a year ago as well.

MR EDWARDS: I think it followed this one, but not by a long way.

COMMISSIONER WATLING: Yes.

MR EDWARDS: I'm familiar with it. I've been involved in both exercises.

COMMISSIONER WATLING: I just think it's inappropriate to make a new award and just leave them hanging for that period of time.

MR EDWARDS: Yes. I understand where the commission's coming from. I'm just particularly anxious to ensure we don't end up with an award free situation developing out of what we do.

COMMISSIONER WATLING: Well, that's up to the other parties, isn't it?

MR EDWARDS: Yes. In that other area, which I don't wish to debate today obviously
35 - I'm in fact waiting for the other party to provide a draft.

COMMISSIONER WATLING: Yes. Well, I'd have to foreshadow that I'm certainly not keen to allow the Chemists Award to continue. I've been caught in the past with the Building Trades Award and I've been down that track once before and all it does is create confusion out there in the work place because people will not know whether the
40 Chemists Award applies or the Retail Pharmacy Award applies, so I'm very keen to make sure that when the new Retail Pharmacy Award is up and running that the Chemists Award disappears as an award of the commission.

So, I'll just let you know where I'm coming from. I don't want any confusion out there after we make the new award.

MR EDWARDS: I hear what you say in that regard, commissioner. I won't make a comment now because I need to try and work out what that all means.

COMMISSIONER WATLING: Well, I think what it all means is that we have to get the other one - if you want -

5 MR EDWARDS: I just don't think the other one is going to be possible in the same time frame I'm discussing for this one. I guess I'm trying to say that without saying it. I'll come right out and say it now. Given the reticence from the other party involved in the other award, I just don't believe there is any real prospect that the Pharmaceutical Wholesalers Award will be completed in the same time frame this one will.

10 COMMISSIONER WATLING: We just might go off the record for a moment.

OFF THE RECORD

15 COMMISSIONER WATLING: I've heard what the parties have had to say in relation to this matter. We will now stand adjourned until 18 December, at which time we will proceed to finalise this matter. However, I would ask the parties if there's no likelihood of finalising the matter on 18 December, then the commission will be notified the week before, that you can't make the deadlines and I don't want to be notified one or two days beforehand that you are not going to proceed. You must know well and truly in advance of that.

So, we will now adjourn until 18 December.

20 **HEARING ADJOURNED**