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TRANSCRIPT OF PROCEEDINGS

O/N 0300

TASMANIAN INDUSTRIAL COMMISSION

COMMISSIONER P.C. SHELLEY

T No 11416 of 2004

HOTELS, RESORTS, HOSPITALITY AND MOTELS AWARD

**Application pursuant to the provisions of
section 23(2)(b) of the Industrial Relations Act 1984
by the Australian Liquor, Hospitality and Miscellaneous
Workers Union - Tasmanian Branch to vary the above award
re to vary the monetary amounts in clause 29**

HOBART

2.30 PM, THURSDAY, 1 APRIL 2004

HEARING COMMENCED

[2.30pm]

PN1

MR P. TULLGREN: I appear for the Liquor, Hospitality and Miscellaneous Union.

PN2

MR P. MAZENGARB: I represent the Tasmanian Chamber of Commerce and Industry Limited.

PN3

THE COMMISSIONER: Thank you. Mr Tullgren?

PN4

MR TULLGREN: Yes. Commissioner, this matter is an application to further vary the Hotels, Resorts, Hospitality and Motels Award in relation to payments - penalty payments made for working particular shifts. This order effectively - or this application effectively seeks to vary the payments for part time employees whereas the previous application sought to vary it for other employees. I might indicate we would seek to make one correction by consent on the record. At paragraph 3 of the draft order it seeks to vary an amount of \$1.50 and it seeks to vary that to \$1.80 and then \$2.09. The correct we would seek is that \$2.09 be deleted and be substituted instead \$1.97. That was a tabulated calculation error.

PN5

Apart from that, Commissioner, that is the only change we seek to the order. There are two matters that I canvass. The first one is that if it is - we would seek that if it is at all possible that the order arising in the previous matter and the order arising in this matter be collapsed into the one order.

PN6

THE COMMISSIONER: The other order has already been issued, has it not?

PN7

MR TULLGREN: I fear that that is probably correct, yes.

PN8

THE COMMISSIONER: I - it has.

PN9

MR TULLGREN: Well, I then - - -

PN10

THE COMMISSIONER: I think this is simply another award variation.

PN11

MR TULLGREN: Yes, I don't press that then. The other matter that my friend and I would like to alert you to is that in considering and discussing this calculation error in relation to the \$1.50 amount it then came alarmingly clear that the same error had been made in relation to the original applications to vary the Hotels, the Licensed clubs and the Restaurant Keepers Award but only in relation to the \$1.50 amount and my friend and I both accept that there is a degree of culpability on our side and - I am sure my friend will as well - but I

do apologise to the Commission in relation to any difficulty that it is going to cause and we would - both my friend and I had a discussion about this.

PN12

We would seek some guidance from the Commission about how the correction can be made. There has been some brief discussion about the possibility of a correction order - corrections orders - being issued simply to correct the figure. I might interrupt you to say that the correction to the \$1.97 is the figure that will apply up to 1 January next year so that it is not a situation where a person or an employer may have sought to act on that to pay a figure which is subsequently to be changed.

PN13

THE COMMISSIONER: Yes.

PN14

MR TULLGREN: So I come back to whether a correction order or - we are very much in the hands of the Commission on it.

PN15

THE COMMISSIONER: Well, we might just go off the record.

OFF THE RECORD

[2.35pm]

RESUMED

[2.40pm]

PN16

MR TULLGREN: Commissioner, thank you for that short adjournment and guidance in relation to the matter. And so coming back to this order, so apart from that correction which I have referred to which is the alteration of the \$2.09 to \$1.97 in relation to the calculation of the increasing amount of \$1.50, save for that amendment we would seek that the award be varied in the terms of the amended order.

PN17

THE COMMISSIONER: Thank you. Mr Mazengarb?

PN18

MR MAZENGARB: Thank you, Commissioner. With regard to the request made by my friend, Mr Tullgren, I can indicate that we have no objection to the amendment in relation to amending that figure of \$2.09 appearing at point number 3 to \$1.97 and we have no objection to the application in its totality in light of the fact that what the union is seeking is similar to previous applications that have been before you in relation to similar matters in that the union is seeking to reflect allowances that are currently reflected in the Federal Hospitality Industry, Accommodation, Hotels, Resorts and Gaming Award of 1998.

PN19

So from that perspective, Commissioner, we have no objection and I would indicate also my comments - reflect the comments made by Mr Tullgren that

we also apologise for any inconvenience caused by some slight errors in relation to the previous orders that have been put before you and considered in the last few days. If the Commission pleases.

PN20

THE COMMISSIONER: Thank you. Well, I indicate to the parties that the award will be varied in the manner sought with an - well, the operative date is not applicable, is it, because - okay we have the specified - okay, the \$1 - the \$1.50, that has application already?

PN21

MR TULLGREN: It does, but it - - -

PN22

THE COMMISSIONER: What was the date of the previous - it needs to be the date of the other one, the same - - -

PN23

MR TULLGREN: From the first pay period on or after today, 1 April.

PN24

THE COMMISSIONER: Okay.

PN25

MR TULLGREN: So it doesn't seek to vary the \$1.80 in all the - the reason we sought that this matter be brought on quickly was to ensure that these increases are in the same terms in time periods as the previous application.

PN26

THE COMMISSIONER: Okay, and that was 1 April?

PN27

MR TULLGREN: Yes, they are from the - commencing the first pay period on or after today.

PN28

THE COMMISSIONER: Yes, so this variation will apply to the first full pay period on or after today's date.

PN29

MR TULLGREN: With the second amendment being from 1 January 2005.

PN30

THE COMMISSIONER: Yes, but that is within it, yes.

PN31

MR TULLGREN: Yes.

PN32

THE COMMISSIONER: That concludes the matter. Thank you.

ADJOURNED INDEFINITELY

[2.45pm]