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TRANSCRIPT OF PROCEEDINGS

O/N 9073

TASMANIAN INDUSTRIAL COMMISSION

COMMISSIONER T.J. ABEY

T No 10613 of 2002

MEDICAL PRACTITIONERS (PRIVATE SECTOR) AWARD

Application pursuant to the provisions of section 23(2)(b) of the Industrial Relations Act 1984 lodged by the Health Services Union of Australia, Tasmania No. 1 Branch to vary the above award re - to give effect to the Full Bench decision in the July 2002 State Wage Case (T10230 of 2002) concerning the minimum wage and the annual leave loading clause

HOBART

9.30 AM, WEDNESDAY, 18 DECEMBER 2002

HEARING COMMENCED

[9.50am]

PN1

MR T. KLEYN: I appear on behalf of the Health Services Union of Australia, Tasmania Number 1 Branch.

PN2

MR I. PATERSON: I appear on behalf of the Australian Municipal, Administrative, Clerical and Services Union.

PN3

MR M. WATSON: I appear on behalf of the Tasmanian Chamber of Commerce and Industry.

PN4

THE COMMISSIONER: Thank you. Yes, Mr Watson - Mr Kleyn?

PN5

MR KLEYN: Commissioner, the variations to the Medical Practitioners Award are a tad more complex than those in the Hospitals Award. There is a proposal that has been put to us just this morning from the Tasmanian Chamber of Commerce and Industry and given that that is agreed to by ourselves it will change the draft orders that I have prepared from the Commission. So in respect of this award I will have to forward draft orders after the hearing if that is okay.

PN6

THE COMMISSIONER: That is fine.

PN7

MR KLEYN: I might ask at this stage for Mr Watson to address the proposal that he has put to us that seems to have resolved any outstanding matters between us and then I will deal with the annual leave loading, if you like.

PN8

THE COMMISSIONER: Thank you. Mr Watson?

PN9

MR WATSON: Thanks, Commissioner. Perhaps if I could just table a document. Perhaps - well, it can be marked as an exhibit if you like but it really just for the assistance of the Commission to go through the proposal. Okay?

PN10

THE COMMISSIONER: Yes. We will mark it R1.

EXHIBIT #R1 DOCUMENT RE CONFERENCE MATTERS

PN11

MR WATSON: Now, this Commissioner is the document that was sent out to the members in relation to the matters we discussed at the conference and just

to take you through I have proposed a slightly different course of action to that proposed at the conference, but I understand that it has actually been picked up by the union parties today. I think it is probably a better resolution. What we are proposing is that as far as the surgery attendant is concerned that the first year rate increased to \$422 from the first full pay period on or after the award is varied by the Commission. And then six months after that time that first year rate actually be deleted from the award.

PN12

So then you would simply have the 432.30 which is the next rate which is in excess of the minimum wage, simply be the entry point. So you would have a four year scale rather than five. We think that is probably a better way of doing it. And secondly, if we can just go over the page. As far as the clerical - the clerk classification is concerned we are proposing that the first year rate increases as per that table there. So first of all it would go to 402.40, six months after that it would go to 412.40, a further six months after it goes to 422.40. And at that point when it gets to 422.40 the first year rate actually be deleted from the award.

PN13

So the second year rate if you like will become 422.40 then it would move to 431.40 and you would simply have two years rather than three in the clerk's classification. I believe that makes a lot of sense and it is probably a less complicated way of doing it and we would propose that that actually be the way that we deal with this award Commissioner.

PN14

THE COMMISSIONER: Yes.

PN15

MR WATSON: Subject to what the unions have to say I think that is an agreed manner.

PN16

THE COMMISSIONER: Thank you. Mr Kleyn?

PN17

MR KLEYN: Commissioner, from the point of view of the HSUA, yes we are in agreement with the proposal put forward by Mr Watson. We think it is a sensible way to go and we will get together and draft orders to that effect. There are some other changes, I suppose we should hear from - - -

PN18

MR PATERSON: No, you are right.

PN19

MR KLEYN: There are some other changes to clause 8 in the Medical Practitioners Award. For reasons unknown to me the supported wage system clause that was inserted into all private sector awards in I think it was T5985 of 1980 - 1995. This didn't go into the Medical Practitioners Award and I am requesting that the award be varied to include the supported wage system. Also the minimum wage clause determined by the Full Bench in T10320 has also been included in the wages clause which also in this effect replaces the

existing minimum wage clause. There is a minimum wage clause in the Medical Practitioners Award.

PN20

THE COMMISSIONER: Does the minimum wage clause that you are putting in, does it take into account phasing arrangement?

PN21

MR KLEYN: No, it doesn't actually. Not the new arrangements that we - no, it is the standard clause that was determined by the bench. We need to have a look at that don't we?

PN22

THE COMMISSIONER: You do, I think, otherwise this phasing arrangement is overridden by the minimum wage.

PN23

MR KLEYN: Yes, well we will come up with some wording.

PN24

MR WATSON: I think, what has happened in a couple of other awards, Commissioner, is the minimum wage clause has actually been held over until the rate actually reaches the minimum wage and at that point it then goes into the award. I think that is the way to do it.

PN25

THE COMMISSIONER: Well, we can do it that way or alternatively the minimum wage can go into the award, but operative on the prospective date.

PN26

MR WATSON: Yes, well I guess that is the other way of doing it.

PN27

THE COMMISSIONER: It is just so it is not lost I would prefer to tie it up if I can and have the minimum wage clause to take effect from the last of the phase in dates, if that is the appropriate date.

PN28

MR WATSON: Yes, well we can deal with that in our discussions about the new order then.

PN29

THE COMMISSIONER: Yes. Very well.

PN30

MR KLEYN: Commissioner, in respect of the annual leave clause in the Medical Practitioners Award I have a revised draft clause. And this clause again is consistent with the decision of the Full Bench in T10230 to provide for a 20 per cent - 17 1/2 per cent loading for annual leave allowance. The changes to the clause are in subclause (a) period of leave remains the same; subclause (b) payment for period of leave is varied, there is an additional dot point (2) which reads:

PN31

In addition thereto all employees other than part time employees in ... (reads)... to the employee concerned.

PN32

That is the only variation being proposed and in our view it is consistent with the public interest test and also consistent with the wage fixing principles and that Full Bench decision. I understand that that is a matter agreed to by the Tasmanian Chamber of Commerce and Industry. Thank you.

PN33

THE COMMISSIONER: Thank you. Mr Paterson?

PN34

MR PATERSON: I can indicate the consent to those variations. The only issue I would raise in terms of the annual leave, I note whilst this award doesn't have shift leave it does have provisions for Saturday, Sunday and holiday work and I don't know the industry very well. I put this as a question to the other parties: Is there an issue in terms of projected roster as opposed to 17 1/2 per cent that should be addressed in the leave loading or is that not a feature of this industry?

PN35

MR KLEYN: Not that I am aware of, but as far as I am concerned it is sufficient.

PN36

MR PATERSON: If somebody worked weekends only they may have an entitlement which was - they may be taking a loss in entitlements if they drop from their projected roster to 17 1/2 per cent, but I am happy to leave that to one side. Maybe for the parties to have a look at and come back on if there is a need.

PN37

MR KLEYN: Yes.

PN38

MR PATERSON: From our point of view this is not one of our major interest awards, I am happy to consent to the position of the other parties.

PN39

THE COMMISSIONER: Thank you, Mr Paterson. Mr Watson, do you consent to the annual leave loading clause?

PN40

MR WATSON: Yes, I do. We have advised Mr Kleyn and Mr Paterson of that. We do consent to it in accordance with the Full Bench decision. Just in relation to that matter that Mr Paterson has raised about projected shift roster, I probably need to have some discussions with the two unions about that just to see whether or not that needs to be a feature of it. I don't think it does, but it is something perhaps we need to have a look at. Just one final matter, Commissioner, before we finish in relation to the test that you proposed earlier can I provide written submissions on that?

PN41

THE COMMISSIONER: Yes, leave is granted, Mr Watson. Very well, the draft order when do you think that can see the light of day? Which side of Christmas?

PN42

MR KLEYN: Well, it will have to be by close of business Friday because I go on leave after that.

PN43

THE COMMISSIONER: Yes, well that is pretty important that we get it if you can deal with that. Very well. Having heard the parties I can indicate that the award will be varied in accordance with the agreed position. The parties are to provide a draft order ideally by close of business on Friday. The award will be varied to operate from the beginning of the first pay period to commence on or after 18 December except as otherwise provided in the draft order to accommodate the phasing in arrangements.

PN44

MR KLEYN: Commissioner, just one question?

PN45

THE COMMISSIONER: Yes?

PN46

MR KLEYN: Do you want hard copies or can I email?

PN47

THE COMMISSIONER: Email is fine. Yes, on that basis this matter stands adjourned.

ADJOURNED INDEFINITELY

[10.00am]

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LIST OF WITNESSES, EXHIBITS AND MFIs

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