

TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984

T Nos 5044 and 5110 of 1994

IN THE MATTER OF applications by the
Health Services Union of Australia,
Tasmania No. 1 Branch and the Tasmanian
Chamber of Commerce and Industry
Limited to vary the Welfare and Voluntary
Agencies Award

re clause 7 - Definitions and restructure of
award

DEPUTY PRESIDENT ROBINSON

HOBART, 31 March 1995
continued from 28/10/94

TRANSCRIPT OF PROCEEDINGS

Unedited

DEPUTY PRESIDENT ROBINSON: I'll take appearances as usual, please.

MS. R. HARVEY: MS HARVEY, R., appearing for the Health Services Union of Australia No.1 Branch. If the commission pleases.

DEPUTY PRESIDENT ROBINSON: I remember you.

5 **MR W.J. FITZGERALD:** FITZGERALD, W.J. I appear on behalf of the Tasmanian Chamber of Commerce and Industry. Thank you.

DEPUTY PRESIDENT ROBINSON: And we have met.

MRS H.J. DOWD: If the commission pleases, I appear on behalf of the Australian Municipal Administrative, Clerical and Services Union; DOWD, H.J.

10 DEPUTY PRESIDENT ROBINSON: And I've seen you before.

MS HARVEY: It always amazes me that she can say that long title of the union.

DEPUTY PRESIDENT ROBINSON: Well the purpose of today's hearing is fundamentally to - to get the order out of the way. It's not of course to have another go at the decision. I thought it best that we do sort of come together formally to - for that
15 task and perhaps we could then go off record and adjourn into conference just to go through the documentation and make sure we all understand it and have got it - got it right. I had, in the decision, asked - invited the parties to prepare the draft orders and it was a bad time of the year for everybody obviously and it has taken a while. We did put out our own draft to assist the parties and invited their comments and we have
20 received some back and that's good.

I suppose exercise could probably fall into two parts, the first being the strict minimal order which is to flow from the - from the decision and we'd like to take the opportunity to point out that the award is a mishmash of amendments and there are anomalies in it and it can be very confusing, I think, in reading it and trying to relate
25 one clause to the other. We, and I include Mrs Devine who has given a great deal of enthusiasm and energy as usual to this task to tidy up the rest of the award just so that it reads properly and to cut out unnecessary repetition not to alter anything contained in the award at this stage other than tidying up and formatting to make it more user friendly. I am aware of course as everybody else would be that the award
30 still has to be revised and we need to hear TCCI's application on conditions, matters. Obviously at the completion of that exercise we would hopefully have a - an award of pristine quality, but the suggestion we might do as much as we can to - to put it into better form and better shape even before we get to that - to that point. But to that extent I'll be in your hands.

35 MS HARVEY: Well if I could just say perhaps one thing on record before we go off record, is that certainly the parties have had discussion yesterday about the order and we - what we're proposing to do today is actually to amalgamate Division A and B in relation to clauses 7 and 8 so that there would be no distinction whatsoever, and that we have agreement on the order in relation to that. There's just a couple of fairly minor
40 changes resulting from that approach and just one other minor thing that needs to be changed. But as I said we have agreement on that. In relation to consolidating the award, certainly it's the HSUA's view that we should use this opportunity of the drafting conference to see whether we can do away with Divisions A and B altogether. My - I have checked the one against the other and there's a few minor differences in
45 award conditions but given that Division A hardly affects anyone anyway, I think we could probably through a drafting conference, you know, given goodwill, do away with Division A and B altogether in this round and then we'd be in a position to issue a consolidated award which would very much halve its size.

DEPUTY PRESIDENT ROBINSON: Yes.

MS HARVEY: In relation to the final matter in terms of TCCI's application, I mean obviously we reserve our rights in relation to - argument in relation to that and just to foreshadow we don't accept that there should be any reduction in conditions because
5 we've already been through that process when we amalgamated three divisions into - sorry - we previously had five divisions which we amalgamated into two which involved an extensive process of - of concession on our behalf and negotiation in relation to conditions matters which we - you completed that process in relation to SEP.

10 So if I could just say in relation to that, we also foreshadow that if the TCCI does - does proceed, certainly I wish to foreshadow, which I've done before which I've done before, that the HSUA would intend to reopen those matters as well, which there's a whole range of conditions matters that we would like to revisit and if we go down that track we'll be doing likewise.

So having made those comments -

15 DEPUTY PRESIDENT ROBINSON: Yes, yes, well I emphasise, today is really a drafting conference to get the order out of the way and I've - I've explained that I hope that in formatting that we might be able to make the award a little more user friendly without touching the provisions which go to any merit of matters. We're not getting into that today. And that's final.

20 MS HARVEY: Yes, we agree. No problems.

DEPUTY PRESIDENT ROBINSON: That's for another day.

MR FITZGERALD: Could I say, Mr Deputy President, just briefly, I'm not wishing to add anything or change anything, firstly we appreciate the commission's efforts in putting the draft order and apologise for not having got back to the commission
25 formally. You are right about the time of the year, it presented a difficult time of the year and with the translation process undergoing - ongoing at the moment it has caused some problems in getting response, but in any event as - as Ms Harvey indicated this morning's exercise will proceed on agreed basis and there doesn't appear to be any problems.

30 In respect to those conditions matters, we - as you indicated, they have been reserved. I think there's some good sense in - in us seeking to have discussions with the union in respect to those prior coming back to the commission and obviously Ms Harvey has indicated in response that there's certain matters which she would be raising which we would again respond to. So we would hopefully do that as quickly as possible and
35 there are some other, we understand, some problems in the field which are caused by interpretative difficulties, and given the comments you've made about the formatting, well that's not difficult to understand.

40 So yes, there is - we have acknowledged that those exercises simply are to effect the order following your decision in T.5044 and 5110 of 1994 but, you know, maybe we can map out some out future direction in a tidying up process of the award. If it pleases.

45 MRS DOWD: Mr Deputy President, I'm not actually going to be involved in the drafting conference that you actually have today, but I was wondering if there would be any possibility of setting dates aside now for the drafting conference in relation to the conditions of the award which I will actually be involved in and then if it's agreeable with the commission I will actually withdraw from today's proceedings.

DEPUTY PRESIDENT ROBINSON: Yes, well we did intend to do as much as we could today on tidying up the award to make it more user friendly and it might be in your best interests if you could stay, I suggest, for a while and we'll see how far we can go with just flipping through the suggested format of conditions matters. I mean the
5 obvious sort of thing is that we've got the same - the same clause in two different parts. I think it's parental leave is the example which is quite a voluminous thing - identical in one part and repeated in another, whereas it applies to the whole award, so why - why have it more than once - that sort of thing. But we would like to go through a document to get the reaction of those who are bound by the award. So I'd
10 recommend to you that you - that you stay, but by the same token I'm sure we don't intend to do anything which will worry you later.

MRS DOWD: Thank you.

DEPUTY PRESIDENT ROBINSON: Perhaps we'll go off record and get down to the actual detail and, please, everybody join in.

15 **OFF THE RECORD**

NO FURTHER PROCEEDINGS RECORDED

HEARING ADJOURNED