

**TASMANIAN INDUSTRIAL COMMISSION**  
Industrial Relations Act 1984

T No. 5296 of 1994

**IN THE MATTER OF** an application by the  
Australian Liquor, Hospitality and  
Miscellaneous Workers Union - Tasmanian  
Branch for the making of a new award

re the Wholesale Plant Bakeries Award

COMMISSIONER WATLING

HOBART, 24 January 1995  
continued from 9/1/95

**TRANSCRIPT OF PROCEEDINGS**

Unedited

COMMISSIONER WATLING: I'll take appearances please.

**MR K. O'BRIEN:** I appear again on behalf of the Australian Liquor, Hospitality, Miscellaneous Workers Union, Mr Commissioner.

COMMISSIONER WATLING: Thank you, Mr O'Brien.

5 **MR J. LONG:** If the commission pleases, JEFF LONG. I appear on behalf of AWU-FIME.

COMMISSIONER WATLING: Are you seeking leave to intervene in this matter?

MR LONG: Yes, sir.

COMMISSIONER WATLING: And what's your reason for intervention?

10 **MR LONG:** We do have members who are employed within the Plant Bakeries. They were previously - are covered by the Mechanical Engineers and Founders Award.

COMMISSIONER WATLING: Well the Mechanical Engineers and Founders Award is being removed as an award of the commission.

MR LONG: Well the old award.

15 **COMMISSIONER WATLING:** So you actually have members covered by the engineering - Metal and Engineering Industry Award.

MR LONG: Yes. My understanding is that there is an agreement in place, it's been there for a number of years with those members.

COMMISSIONER WATLING: An agreement registered with the commission?

20 **MR LONG:** No, sir. It was -

COMMISSIONER WATLING: Well what standing does that have before me?

MR LONG: It would have none.

COMMISSIONER WATLING: Right. Well we'll see what the other parties have to say. Mr Edwards?

25 **MR T.J. EDWARDS:** If it please the commission, EDWARDS T.J. And I also have appearing with me today, MR G. JONES, J. PACKHAM and A. INGLIS, for the Tasmanian Chamber of Commerce and Industry. On the question of Mr Long's application for intervention, we wouldn't at this point in time oppose that. We were I think going to ask the commission for some time in conference this morning between  
30 the parties and it may be possible that Mr Long's interest or concerns may be able to be dealt with at that time in such a way that the intervention may become unnecessary.

35 But that would be the subject of discussion between the parties as to the extent to which the classifications he's seeking to look after the interests of are not intended to be included in the award.

COMMISSIONER WATLING: Right.

MR EDWARDS: But I'd have no objection at this time, commissioner.

COMMISSIONER WATLING: Mr O'Brien?

5 MR O'BRIEN: I guess my response would have to be very similar to Mr Edwards' response. We indicated that we are not intending to interfere in the relationship between Mr Long's organisation and those members. By the same token we're not keen that the award have a proliferation of parties with a very minor interest in terms of membership covered and representational areas. So I wouldn't oppose it at this stage but hopefully we can sort it out in such a way that Mr Long's organisation can be satisfied that it needs have no further part in these proceedings.

10 COMMISSIONER WATLING: Right. Well, Mr Long, I'll grant you leave to intervene at this stage. However at some stage in the future I may wish to consider that in greater depth.

Right, on the last occasion we were together there was an adjournment to enable the parties to have further discussions. I suppose I need to be brought up to speed as to where we are.

15 MR O'BRIEN: Well, Mr Commissioner, I think Mr Edwards averted to a suggestion that those discussions have not progressed sufficiently for us to advise you of an outcome today. But we would seek that this matter adjourn into conference today so that my organisation and Mr Edwards' organisation can discuss any issues of concern with recourse to you today - perhaps a report back at the conclusion of that meeting, 20 to you, Mr Commissioner, today and then we can program how we go, whether we need to program hearings for argument or otherwise.

So we would formally seeking that the matter adjourn into conference and resume later today on the -

25 COMMISSIONER WATLING: When do you think? Should I just sit in my office and wait for someone to call during the day?

MR O'BRIEN: Can I suggest no earlier than 11.30.

COMMISSIONER WATLING: Right.

30 MR O'BRIEN: And I suspect an hour will give us time to flesh out the necessary matters and understand where we're headed and we would be in a position to report to you. I will just ask that if we think we need 15 minutes more that we could send that message up.

COMMISSIONER WATLING: Right. Well I'd want to be setting a time. Mr Edwards?

MR EDWARDS: Thank you, commissioner. Commissioner, as -

35 COMMISSIONER WATLING: Can I just say, the only reason I want to set a time, I think really these discussions should go on prior to the hearing. Like, the commission could have had other hearings today and I'm not overly happy with people coming along and then starting their discussions at the start of the hearing. Anyway, Mr Edwards?

40 MR EDWARDS: Yes, thank you, commissioner. And I guess to some extent my organisation must accept a fair proportion of the blame for the fact that we're here today without having had the discussions. And it's been through a combination of circumstances which really are of no-one's fault; it's just a question of trying to get together a number of divergent parties from around the state to have the discussions and then to try and get together with Mr O'Brien in circumstances where he is on 45 leave, and I have got a number of other issues on. And we apologise to the commission

for the inconvenience, but it's just I think, at the end of the day, one of those things that should be avoided if they can, but they can't always.

Commissioner, as Mr O'Brien has indicated, we would seek -

5 COMMISSIONER WATLING: They could be avoided by earlier notice to the commission that you haven't had discussions and maybe they could even be rescheduled for another date and I could have brought on a couple of unfair dismissals that are in my incoming tray, where people are just hanging around waiting for a hearing.

MR EDWARDS: I take your point, commissioner.

10 Commissioner, as Mr O'Brien has indicated we would seek to go into the conference that has been suggested by Mr O'Brien. As you will recall last time we were before the commission, the matter was adjourned to enable myself in particular to seek detailed instructions from the industry. I have done that. The result of those instructions is that I have a number of concerns on behalf of the industry that we'd like to take up  
15 direct with Mr O'Brien which may in fact bring about an alternative approach to this whole question. That would be the subject of the discussion. And, like Mr O'Brien, I would think that we would probably initially need no more than 1 hour to flesh out those issues and to see whether or not we have a joint direction we can pursue or, alternatively, advise the commission that we don't, and see where we go from there.

20 If it please the commission.

COMMISSIONER WATLING: Right. Mr Long, have you got a view?

MR LONG: No, I accept what Mr Edwards of the TCI has said and support the adjournment.

COMMISSIONER WATLING: Well this matter will stand adjourned until 11.45.

25 **INTO CONFERENCE**

COMMISSIONER WATLING: Who shall I turn to for a report? Mr O'Brien?

MR O'BRIEN: Mr Commissioner, thank you for that opportunity for discussions. We have reached the stage where, as I understand it, we are agreed in principle that an award should be made. And I think without commitment to the precise title or scope  
30 that we would be seeking that the matter be listed possibly around the 1st, 2nd or 3rd March for hearing of a - for the making of the title and scope of the award. That will allow us in the intervening period to sort out any difficulties that may exist about that which is proposed in the application and come before you either with an agreed position or for argument on that day for the making of the title and scope. But  
35 hopefully we'll be in the position of having an agreement on that matter.

COMMISSIONER WATLING: Right. Is that your understanding, Mr Edwards?

MR EDWARDS: It is, commissioner, yes. The employer groups that I'm representing in these proceedings have given to Mr O'Brien an agreement in principle, that we would create an award, the title and scope of which isn't yet finite and is something  
40 that there needs to be some very detailed and careful discussions on. The commission as currently constituted has often instructed the parties in the past to be very cautious when setting scope clauses, and we intend to use that caution. And it is intended that the parties would use approximately the next 4 week period to discuss that in a detailed way with a view to coming back to the commission hopefully on  
45 about those dates Mr O'Brien has suggested with an agreed position.

I might add that the reaching of that even in principle agreement has been difficult and it's only been brought about by the very frank exchange of views that we've had in conference today. And I'd just like the record to show that.

5 From our point of view we undertake to join with Mr O'Brien in those discussions as a matter of some reasonable urgency with a view to trying to bring this matter to an end. If it please the commission.

COMMISSIONER WATLING: Good. Right. Mr Long is not with us, I see.

MR EDWARDS: He's flexed off.

COMMISSIONER WATLING: So, will future discussions include the metal unions?

10 MR O'BRIEN: Well my intention is to satisfy their - that they need not be involved would be - if they believe they have a need to and we can't resolve that, I guess they may have to come back here to be so involved. But I think my comments to Mr Long this morning I think would go a long way towards satisfying his organisation.

15 COMMISSIONER WATLING: Good, thank you. We might go off the record and look at a date for resumption.

**OFF THE RECORD**

COMMISSIONER WATLING: This matter will stand adjourned until 10.30 on Tuesday the 2nd March 1995. Thank you. Thursday, it is, sorry, 2nd March 1995.

**HEARING ADJOURNED**

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