

**TASMANIAN INDUSTRIAL COMMISSION**

Industrial Relations Act 1984

T Nos 5222 and 5223 of 1994

**IN THE MATTER OF** applications by the  
Construction Forestry Mining and Energy  
Union, Tasmanian Branch to vary the  
Building and Construction Industry Award  
and the Building Trades Award

re expense related allowances

COMMISSIONER IMLACH

HOBART, 27 October 1994

**TRANSCRIPT OF PROCEEDINGS**

Unedited

COMMISSIONER IMLACH: I'll take appearances.

**MR J.W. GILL:** If the commission pleases, GILL, JACK WILLIAM, and I appear on behalf of the Construction, Forest, Mining and Energy Union. With me is **MR MAX CORDWELL**.

5 COMMISSIONER IMLACH: Thanks, Mr Gill.

**MR J. LONG:** If the commission pleases, MR JEFF LONG, I appear on behalf of AWU-FIME Amalgamated Union. It is my understanding that both matters will be run concurrently, and I appear in both matters.

COMMISSIONER IMLACH: Thanks, Mr Long.

10 **MR S.J. GATES:** If the commission pleases, GATES S.J., appearing on behalf of the Tasmanian Chamber of Commerce and Industry Limited.

COMMISSIONER IMLACH: Mr Gates.

**MR C. ATKINS:** If the commission pleases, CHRISTOPHER ATKINS from the Master Builders' Association.

15 COMMISSIONER IMLACH: Mr Atkins.

Yes, well we will join both those applications 5222 and 5223. No objections? Right. Mr Gill?

20 MR GILL: Mr Commissioner, these applications are to vary both awards to upgrade the expense related allowances in line with what's already occurred in the federal award, the National Building and Construction Industry Award.

That award was varied by Senior Deputy President MacBean on 24 August 1994, and it was recorded as C.No. 22692 of 1994, and we are seeking this variation to bring the two awards - to mirror the two awards - as has been the normal custom and practice.

25 We do claim and have claimed for a lot of years there is a nexus between the two awards and that we want to maintain that nexus as closely as we can.

So, to vary this award for the expense related allowances we've used the Australian Bureau of Statistics, their consumer price index figures for the quarter of June 1994, and I would like to hand those up for the commissioner, and the other parties have got a copy of them.

30 COMMISSIONER IMLACH: Call that exhibit G.1.

35 MR GILL: In these consumer price index figures there is a formula used that is a weighted figure. What they do is they actually add up all the increases for the capital cities and they apply an average to them and they call it a 'weighted figure', and that has been arrived at at 1.7% for the June 1994 quarter; and we have applied that weighted figure to our calculations in the award clauses, and I will go through the Building Trades Award first for the expense related allowances calculation schedule.

COMMISSIONER IMLACH: Have you got a copy of that for me, please, Mr Gill?

MR GILL: Oh, sorry about that. Yes, I will hand up a copy, yes.

COMMISSIONER IMLACH: Is that in the application itself?

MR GILL: No, this is the amended schedule that we had trouble with a couple of days ago. At the same time I will hand up the draft order that we have prepared for the Building Trades Award - the other allowances - so I will hand it up all in one go.

5 COMMISSIONER IMLACH: Right. Well we will - I have got here in front of me, Mr Gill, a draft for the Building and Construction Industry Award. I have also got a draft for the Building Trades Award, and we have got the allowances calculation schedule, so we will start with the draft for the Building and Construction Industry Award and call that G.2. Right?

MR GILL: Yes.

10 COMMISSIONER IMLACH: The draft for the Building and Construction Industry Award. The draft for the Building Trades Award we will call that G.3, and the expense related allowances calculation schedule draft we will call that G.4.

Are we right?

MR GILL: Yes, Mr Commissioner.

15 COMMISSIONER IMLACH: Now I believe you were going to tell me about G.4.

MR GILL: That's correct. As I have already mentioned that 1.7% weighted figure we applied that. If you look at G.4 under the subheading 'Current Rate' where it says \$17.00 and you go along to the right hand side where it says 'Calculation', you have got 17 times 1.017, and then underneath that, equals 17.289. That has been rounded  
20 up to \$17.30 as the new proposed rate.

COMMISSIONER IMLACH: Right.

MR GILL: And if you look down the other column back to the left hand side you have got another figure - 14.10.

I won't go through the same words, but we have applied \$14.10 by 1.017 and we have rounded that one- well, it hasn't needed to be rounded, but it has come out at \$14.30.  
25

So that 1.017 weight figure has been applied to all the current rates in the award, and they are the new rates on the right hand side under the 'Proposed' column.

COMMISSIONER IMLACH: Right. And if I perhaps follow this on - if I look at G.2 I see those figures reflected there in the draft award amendment - is that correct?

30 MR GILL: That's correct. G.2 is the award which says to delete - I am sorry - for the new rates for the clauses. And the words - and with the new rates, how they are to be applied.

COMMISSIONER IMLACH: And are you telling me, Mr Gill, that the whole of that document G.2 reflects the same process in all the other parts of the award where there are cost related allowances?  
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MR GILL: That's correct, Mr Commissioner, yes.

In the documents we have with us there has been a - we have got a minor hiccup - insomuch as we have discovered this morning there has been a miscalculation made in past years on one of the items in oneAnd in fact a compensation for clothing and tools, clause No. - if I can find it.  
40

MR GATES: Thirteen.

MR GILL: Thirteen?

MR GATES: Yes, 13 and ....

COMMISSIONER IMLACH: Clause 13 in G.2 and clause 13 and 51 in G.3. Is that right?

5 MR GILL: Yes, that's correct, clause 13(a) and clause 51(a).

COMMISSIONER IMLACH: What are you saying, Mr Gill?

10 MR GILL: The figure on the bottom of the page of \$994, in the left hand column is incorrect. It should have been \$992 because apparently sometime in the past the wrong formula was applied to that particular figure and it hasn't been picked up by us, but the TCCI have brought it to our attention this morning. And it may be beneficial if they was to explain their argument. But we're willing to accept what they're saying inasmuch as it strengthens our argument and it ties with our nexus between our state and the federal award, or we agree that they have - they must be the same because we have got a nexus and we argue that very strongly.

15 So I think it would be beneficial if I was to ask the TCCI to explain how it came about. They seem to have more information on it than what we do, but there was apparently a mistake made at a past hearing with the formula.

20 COMMISSIONER IMLACH: Yes. Well before we do that, Mr Gill, - I don't want to rush you but I also want to make this thing as easy and simple as possible. So as I understand it that formula for calculation of 1.7 or 1.017, when you start multiplying, has been applied, has it, across the board or are there other percentages?

MR GILL: No, that's the figure that's been applied to all the expense related allowances, to multiplying - the multiplying figure to increase the allowances.

COMMISSIONER IMLACH: Right.

25 MR GILL: And that figure, the 1.017 per cent is the weighted ABS figure.

COMMISSIONER IMLACH: Right. Yes, all right.

MR GILL: There hasn't been any allowances increased by any more or any less than that figure; they're all exactly the same.

COMMISSIONER IMLACH: Right.

30 MR GILL: Apart from that one I've already outlined, and that will be addressed very shortly.

COMMISSIONER IMLACH: Yes. And in that respect - well just remind me if you would, Mr Gill, once we've heard from Mr Gates and we accept what he is saying, that you will seek to amend your application in that way.

35 MR GILL: Yes, we will, Mr Commissioner.

COMMISSIONER IMLACH: Right. Now is there anything else?

40 MR GILL: Yes, there is. I'd like to address the operative date of this increase. I'd ask the commissioner that he gives a decision, seeing as we've got consent on it, apart from that one issue, and when we get that thrashed out, and make the operative date today's date.

COMMISSIONER IMLACH: Right.

MR GILL: Thank you very much.

5 COMMISSIONER IMLACH: Yes. And, Mr Gill, just to confirm, all these amounts and the whole process follows, you've submitted to me, the same calculations, the same results in the federal award.

MR GILL: That's exactly right, Mr Commissioner, yes.

COMMISSIONER IMLACH: Thanks, Mr Gill.

MR GILL: Thank you.

COMMISSIONER IMLACH: Mr Gates?

10 MR GATES: Yes, thank you, Mr Commissioner. We're before the commission today on what essentially is a consent matter and it has come to our attention that previously - when the previous draft order and the calculations submitted to TCCI and to my colleague, that there - sorry, we were in fact perpetuating what appears to have  
15 been an error carried through from previous years. And what we'd seek today, Mr Commissioner, is that we correct that error so we don't drag it forward any more.

As to the matter of nexus I'd prefer, Mr Commissioner, not entertain that at this point in time as I have insufficient historical and .... data to give me an opinion either way. Certainly this award has been carried by Mr Edwards of TCCI for some substantial period of time and I wouldn't have instructions to go either way today.

20 What we would suggest though, Mr Commissioner, is that the rates under the federal award, to my understanding, mirror or align with those in the state award, and that has been done for some period of time and we'd seek that those be accurately transcribed in today's hearing.

25 The compensation for clothes and tools, the \$1,011 which was the amount which we now are in a position to vary by consent, as I understand was the subject of a miscalculation some years ago when the award was under the portfolio of Mr Watling of this commission, and that has been perpetuated for a period of time and the parties today are in the position where we can say, quite happily and with consent, Mr Commissioner, that that should be varied to reflect the actual rate of \$1,009.

30 As we consent to the application today with that change to it, Mr Commissioner, we would seek an operative date of the first full pay period to commence on or after the date of decision.

35 COMMISSIONER IMLACH: Yes. Mr Gates, before we go - now let's go back to one of these exhibits. Perhaps if we start with G.4, item 11 on the last page. As I understand it, what you're saying to me is that a proposed rate of \$1,011 ought to be \$1,009.

MR GATES: Yes, that's correct, Mr Commissioner. It would appear that if we looked at 11, point 11 - just compensation for clothes and tools, that that is actually a copy of the order submitted federally or just transcribed across. Is that correct? No.

COMMISSIONER IMLACH: We'll just go off the record for a minute, thanks.

40 **OFF THE RECORD**

COMMISSIONER IMLACH: Yes, so as I understand it, Mr Gates, you're submitting to me that the current rate, according to your knowledge of the federal order is in the

matter of compensations for clothes and tools, \$992, which means if you apply the calculation, a proposed rate of \$1,009. Is that it?

MR GATES: Yes, that's correct, Mr Commissioner.

5 COMMISSIONER IMLACH: Yes, thanks, Mr Gates. Mr Gill, two things. You concur with what we have proposed in relation to item 11 - compensation for clothes and tools, do you?

MR GILL: Yes, Mr Commissioner, we do.

COMMISSIONER IMLACH: Yes. And Mr Gates proposed the operative date of the first full pay period on or after today, which I would prefer. How's that sound to you?

10 MR GILL: We'll agree with that as well, yes.

COMMISSIONER IMLACH: Right, thanks, Mr Gill. All right, is there anything else? What about you, Mr Atkins, do you go along with all that?

MR ATKINS: Certainly, on behalf of the members of the Master Builders Association, I concur with those decisions.

15 COMMISSIONER IMLACH: Good. All right, thank you. I'll indicate now, subject to any error and omissions in the calculations, that this application will be granted operative from the first full pay period on or after today's date. Thank you.

**HEARING CONCLUDED**