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## **TRANSCRIPT OF PROCEEDINGS**

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O/N 9171

### **TASMANIAN INDUSTRIAL COMMISSION**

#### **COMMISSIONER P.C. SHELLEY**

**T No 10658 of 2003**

#### **HAIRDRESSING, HEALTH AND BEAUTY INDUSTRY AWARD**

**Application pursuant to the provisions of  
section 23(2)(b) of the Industrial Relations Act 1984  
by the Shop, Distributive and Allied Employees  
Association, Tasmania Branch to vary  
the above award re safety net review 2002 -  
award rates increased by \$18 per week**

**HOBART**

**10.30 AM, THURSDAY, 13 FEBRUARY 2003**

**HEARING COMMENCED**

**[10.45am]**

PN1

MR P. GRIFFIN: I appear on behalf of the Shop, Distributive and Allied Employees Association, Tasmanian Branch.

PN2

MR T. STEVEN: I appear on behalf of the Hairdressing Federation of Tasmania.

PN3

MS J. THOMAS: I appear on behalf of the Tasmanian Chamber of Commerce and Industry Limited.

PN4

THE COMMISSIONER: Thank you. Now, I note that these proceedings were actually scheduled to commence at 10.30. Is there a reason for the delay?

PN5

MR GRIFFIN: As I understand I was one and a half minutes late, Commissioner Shelley, which I apologise for and I do believe we were waiting for Mr Forbes Ireland who had taken part in these proceedings in the past. We then find out later after some phone calls through Mr Steven's office that he decided not to attend.

PN6

THE COMMISSIONER: That is without notifying anybody, I take it?

PN7

MR GRIFFIN: As I understand.

PN8

MR STEVEN: Commissioner, officially speaking Mr Forbes Ireland wasn't on the invitee list. He would have been appearing on our behalf.

PN9

THE COMMISSIONER: Right. So in which case it can't really be considered to be quite the discourtesy that it may appear to be at first blush. Okay, thank you for that. Mr Griffin?

PN10

MR GRIFFIN: Good, thank you, Commissioner. Firstly, just to perhaps bring you up to date with this particular award as I understand this is the first occasion in respect of the modernisation of this award that we have had discussions with over the past couple of years that is your involvement with this process. And I would just firstly like to say that this has been a process, as I said earlier, probably over the last two years at least, probably three years of discussions between the union - or the parties of the award to modernise the award and bring it up to the rates of pay and put it in the proper vernacular shall we say that it should have under the wage case principles etcetera.

PN11

Last year on 1 January 2002 the process had already been in place, but we then implemented the second minimum rates adjustment. This was done - I should say that the whole process was done on a consent basis between the parties and negotiations which we have with the Hairdressers Federation, the Tasmanian or the TCCI and representing the Federation at the time was Mr Forbes Ireland and that is initially where those discussions started and they have been completing since. Last year also from 1 July, the first full pay period after 1 July, the third MRA was put in place and we then had discussions as to how we were going to implement the safety net adjustment that was handed down last year.

PN12

It was agreed that the process would be by finalising all those increases before the next safety net of 2003 came out. It was agreed that the fourth MRA would come into place in 2002, or a section of it was, a portion and then the second portion would be applied by 1 April 2003. Now, that didn't halt application being made for the safety net increase of 2002 being applied from the first full pay period on or after 1 January 2003 which is why we are here today to process that particular variation. As I say these negotiations have taken place on a consent basis.

PN13

It was agreed during the last time we met here in 2002 that the first - that this safety net increase would be applicable from the first full pay period on or after 1 January 2003. And it is the \$18, that is our application before you now. You should have received that application with a draft order which I have distributed to the other two members of the other parties here today.

PN14

THE COMMISSIONER: Yes, and we have checked the arithmetic and it seems to be in order. Don't always assume that that is the case, but - - -

PN15

MR GRIFFIN: I understand.

PN16

THE COMMISSIONER: Yes, and that does seem to be in order. So this is the only outstanding safety net adjustment in this award, is it the \$18?

PN17

MR GRIFFIN: Yes, this completes it, yes. We have set in a process, as I say over the last two years to bring it up to what it should be and once this - I take the liberty of saying if this application is approved today it will complete the safety net process. The only outstanding part as I said before - - -

PN18

THE COMMISSIONER: Is the fourth - - -

PN19

MR GRIFFIN: - - - is the fourth MRA and the last section of that which is subject to be completed by 1 April this year.

PN20

THE COMMISSIONER: Okay. Thank you.

PN21

MR GRIFFIN: Good, thank you, Commissioner.

PN22

THE COMMISSIONER: Mr Steven?

PN23

MR STEVEN: Commissioner, I concur with everything Mr Griffin has just said and I would like to add in the negotiations we had an overriding principle that we had - we would abide to a three month cushion between any of the safety net adjustment increases that may arise during our two year process of introducing the four MRAs. And this is one of the reasons why the last MRA was pushed out by three months. So it is anticipated that we will be making - that the union will be making application for the last rise on 1 April, being three months from 1 January where this particular safety net adjustment is being introduced, we hope.

PN24

So we concur with all the efforts and the negotiations and we also note that a complete revamp of the award had taken place back, what, over about a year ago now. So we are just really finalising the last of that procedure.

PN25

THE COMMISSIONER: Thank you. Ms Thomas?

PN26

MS THOMAS: Yes, Commissioner. I rise to give our consent to the application of the safety net adjustment of \$18 to the wage rates in this award. However, I am in the unfortunate position of having to object to the operative date that is being sought. As Mr Griffin pointed out and Mr Steven alluded to, this has been an agreed process, however the last time we were before the Commission in conference before Deputy President Watling, Deputy President Watling clearly indicated to the parties that the application will need to be lodged in December to enable that to be heard and processed prior to the operative date of 1 January. It is now 13 February.

PN27

This matter was lodged with the Commission on 7 January. We would argue that in the circumstances the operative date be the first full pay period commencing on or after today's date. However, as a secondary position if the Commission doesn't accept that view, we would argue that the operative date can be no earlier than the date that the application was lodged with the Commission. So it is an unfortunate position. We quite often given our consent to phasing in arrangements but that is always on the basis that the applications are made and determined prior to those dates coming through. So if it pleases the Commission, they are my submissions.

PN28

THE COMMISSIONER: Thank you. Ms Thomas, you are not trying to tell me that there have been no occasions when the operative date has been earlier than either the date of the hearing or the date of the application, are you?

PN29

MS THOMAS: There is probably not, but if for example the SEA had contacted us and said, "Look the application is going to be late," and we had time to advise our members of the fact that there would be a late application, that is fine, but there has been no consultation on this issue. We are in the unfortunate position if it is given an operative date of 1 January, we are going to our members saying that they owe their people six weeks worth of safety net adjustment which we don't think is fair given the lack of consultation in this matter.

PN30

THE COMMISSIONER: What does that do to that three month cushion that has been agreed upon in relation to the anticipated MRA that comes into force and will come into effect on 1 April?

PN31

MS THOMAS: Well, I have no problem with the operative date of 1 April for that last portion of the fourth MRA provided that the application is made prior to 1 April.

PN32

THE COMMISSIONER: Well, I better hear I think from Mr Griffin again.

PN33

MR GRIFFIN: Thank you, Commissioner. It is true the application wasn't made until 2 January - 7 January, but in respect of that the discussion - there were discussions taken with the Hairdressers Federation of Tasmania and as I understand members of that organisation were informed that the pay increase should be applied as the - it was an agreed position that 1 January or the first full pay period after that date would be when the amount would be processed, or paid from according to the award when it was varied.

PN34

That was the business, the TCCI were represented at the negotiations during this process was put in place. It does raise issues in respect of what you rightly have said, in that 1 April finalising the fourth arrangement of the MRA. It is a concern that that may then have to be extended. But what we shouldn't forget also is that the second minimum rate adjustment that was paid last year from the first full pay period of 1 January 2002, but the hearing didn't take place as I understand until 5 February 2002 and it was backdated then. So you certainly wouldn't be setting any precedents by paying the amount from that first full pay period after 1 January this year, Commissioner.

PN35

THE COMMISSIONER: Thank you. Mr Steven, has the pay increase in fact been paid to people from 1 January to your knowledge?

PN36

MR STEVEN: Commissioner, the Hairdressing Federation designs a wage schedule and it was circulated shortly before the end of 2002 to all members which constitutes approximately, at that stage 110 salons around the State and they would have been making these pay increases from 1 January.

PN37

THE COMMISSIONER: Yes.

PN38

MS THOMAS: If I may, Commissioner, just one point that Mr Griffin raised. He indicated that he had discussions with the Hairdressers Federation, it didn't happen with the Tasmanian Chamber of Commerce and Industry. And obviously we are parties to the award. We are entitled to be involved in those discussions.

PN39

THE COMMISSIONER: Yes, I would agree with that. So 110 - the likelihood is that 110 salons have been paying the staff the safety net adjustment from 1 January.

PN40

MR STEVEN: That is correct.

PN41

THE COMMISSIONER: How many salons would not be members of the Federation?

PN42

MR STEVEN: This is only an estimate, Commissioner, I anticipate that there would be around about 360 salons in the State in all. A lot of those though wouldn't have staff. So it is a bit of a guess how many would have staff and would not be advised. I don't know how many members the TCCI have in their database, but I guess that a lot of the others would get their information through Workplace Standards.

PN43

THE COMMISSIONER: Okay, so there was an agreed process and the agreed process was that the increase would come into effect on 1 January. And the TCCIs problem with that is that the application was not lodged until some five or six weeks later - - -

PN44

MR GRIFFIN: Six days later.

PN45

MS THOMAS: Six days later, but the hearing is now six weeks later.

PN46

THE COMMISSIONER: Okay, I have written down it was lodged on 7 February, but it was lodged on 7 January.

PN47

MR GRIFFIN: No, 2 - 7 January.

PN48

THE COMMISSIONER: Yes. So therefore if there is any significant delay therefore is in the hearing of the matter and a much smaller delay in the lodging of the claim.

PN49

MR GRIFFIN: That is true.

PN50

THE COMMISSIONER: Yes. If there were to be an operative date from the date of the lodgement that puts your schedule out by one week, but Ms Thomas has indicated that the TCCI would not have any objection to the agreed date for the fourth MRA in any event. I indicate to the parties that the variation sought will be granted with an operative date of the first full pay period on or after 7 January 2003. My reasons for the decision will be issued in writing in due course.

**ADJOURNED INDEFINITELY**