TASMANIAN INDUSTRIAL COMMISSION
Industrial Relations Act 1984

T No. 5172 of 1994

IN THE MATTER OF an application by the Shop Distributive and Allied Employees Association, Tasmanian Branch for the making of the Retail Pharmacy Award

COMMISSIONER WATLING

HOBART, 10 November 1994

TRANSCRIPT OF PROCEEDINGS

Unedited

COMMISSIONER WATLING: I will take appearances, please.

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

COMMISSIONER WATLING: Good. Thank you.

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

COMMISSIONER WATLING: Thank you.

MR D. PYRKE: If the commission pleases, DARRYL PYRKE appearing on behalf of the Salaried Pharmacists' Association, Tasmania Branch.

COMMISSIONER WATLING: Good. Thank you.

MR T. EDWARDS: if it please the commission, EDWARDS T.J. I appear for the Tasmanian Chamber of Commerce and Industry and also for the Pharmacy Guild.

COMMISSIONER WATLING: Good. Thank you. Well, I take it there has been pre-hearing discussions on this matter.

MR GRIFFIN: That's right.

COMMISSIONER WATLING: We are all set to go, are we? Right. Well, now, Mr Griffin, to start off then.

MR GRIFFIN: Thank you, Mr Commissioner. This application has an intent by the parties to create a new award within the pharmacy industry that is more pertinent, Mr Commissioner, to the retail sector of the industry than does the current Chemists Award.

The Chemists Award is a mishmash of different provisions across a number of areas and we feel that by creating a new award called the Retail Pharmacy Award it gives opportunity for the RMA process and further job design to be implemented.

It will also allow greater flexibility in pharmacy outlets for a more modern award, or a more modern structure, that suits the actual industry of retail.

Having said that, Mr Commissioner, the parties have met in relation to how we feel that the title and scope which is the intent of this hearing that it be processed, and I will hand up an exhibit which we think would suffice in the implementation of this new award.

COMMISSIONER WATLING: Mark this Exhibit G.1.

MR GRIFFIN: Now in that, Mr Deputy President, as we go through it there is - I would just like to put you on notice, perhaps, that having put this together and brought it here today I would like to say that there is something else come to the fore and it is perhaps a residual matter which might be best suited if we went into conference and discussed it amongst the parties with yourself - and I refer specifically to (3)(c) `and may sell other goods by retail'.

Now it is a residual matter, but I feel it would be best suited if we discussed it in conference amongst the parties and yourself.

COMMISSIONER WATLING: Right. Any objections?

MR EDWARDS: None at all.

COMMISSIONER WATLING: Right, we will just go off the record, then, thank you.

OFF THE RECORD

COMMISSIONER WATLING: Mr Griffin, yes?

MR GRIFFIN: Thank you, Mr Commissioner, and thank you for the opportunity to address that particular matter which I raised earlier in conference, and it appears as though we are in a direction now which we can still continue with what the proposal has been handed up today in relation to the title and the scope and that definition in relation to this proposal of a retail pharmacy award.

In saying that, I would also bring to your attention that in the making of this award until it is made in its entirety that the Chemists Award will still prevail and that there be a standard provision referring to that particular issue that the Chemists Award is the award that will pertain until this award is made in its entirety.

COMMISSIONER WATLING: Right. Thank you.

MR GRIFFIN: And in respect of the other parties and the discussions that have taken place I put to you that the provisions that have been put forward to you today that they be endorsed and carried out as need be.

COMMISSIONER WATLING: Thank you.

MR GRIFFIN: Thank you, Mr Commissioner.

COMMISSIONER WATLING: Mrs Dowd, any submissions?

MRS DOWD: Mr Commissioner, I have no problems with the proposal that has been put in relation to the title and scope for this particular award.

Today is the first day that I have actually been involved in anything to do with this award. I didn't even know that it was actually being proposed until I got back to the office on Monday and saw the notice appearing in our office.

I hope that in the future that AMACSU will actually be involved -

COMMISSIONER WATLING: Because you mightn't have any members in the area; is that right?

MRS DOWD: Mr Commissioner, we do have members under the Chemists Award but I can't say whether there are any in the retail pharmacies because I haven't checked our records in relation to that.

But I would actually like to have the union involved in the discussions in relation to this particular award.

If the commission pleases.

COMMISSIONER WATLING: Right. Mr Pyrke?

MR PYRKE: Thank you, commissioner.

Sir, the SPA is comfortable with the direction that this application is taking the industry in. We certainly support the view that the provisions of the existing Chemists Award should prevail until such time as we finalise this new Retail Pharmacy Award.

I think we can also report back on the record the decision that we took in the conference and that is that we should move the word `industry' in the scope clause so that Clause 2 - Scope now reads:

This award is established in respect of the retail pharmacy industry (as defined).

COMMISSIONER WATLING: Good.

MR PYRKE: Other than that, I have nothing to add to what Mr Griffin has put to you, and look forward to being part of future proceedings.

If the commission pleases.

COMMISSIONER WATLING: Thank you. Mr Edwards?

MR EDWARDS: Thank you, commissioner.

Commissioner, the TCCI and the Pharmacy Guild both support the application before you which is more particularly spelled out by way of Exhibit G.1 as amended in the manner just described by Mr Pyrke, and I formally advise the commission of our consent to that proposal and the form of words that is advanced by Exhibit G.1.

Sir, this is an application made pursuant to section 33(1)(a) of the act for the making of an award in respect of all or any private employees employed in an industry, and what we have endeavoured to do by way of the scope clause which is now before you is to describe the retail pharmacy industry. We've done that by way of a definition which we would seek to have included in the award.

In doing that, it was the intention of the parties, and remains the intention of the parties, to try and cover all employees that are engaged in the retail pharmacy industry by a single award.

As you would be aware, sir, the employees in question and the employers have previously observed the terms of the Chemists Award.

Now Mr Griffin obviously was paying significant attention to the private discussions we had prior to the hearing this morning when he described the Chemists Award as a mishmash, because that was my term and he stole it.

But I think it is an accurate description because it became an award -

COMMISSIONER WATLING: I will hand down the sentence on that later.

MR EDWARDS: We will indeed. I will be talking to the police, I think.

Commissioner, the Chemists Award became an award which tried to cover too broad an area and, as such, it really has lost its direction. It's lost its meaning because the areas covered by it are now so broad and divergent that it becomes impossible for the parties to properly apply a structural efficiency exercise to the award, and the commission is well familiar with the frustrations of the parties in that regard where we have tried to sort this thing out, but it has become very, very difficult.

The end result is that we have agreed to break the Chemists Award into a number of different areas. This is the first of the steps in that process.

There is also an application currently before the commission that is yet to come on for hearing where an application has been made by the National Union of Workers for the establishment of a counterpart wholesaling chemists award, although I don't think that's what they have called it. I think it is the Manufacturing Chemists Award or something similar to that.

COMMISSIONER WATLING: Like the federal award.

MR EDWARDS: The same name, yes, commissioner.

Now in that regard that would become the second step in this process and whether there remains any steps after that remains to be seen by what goes into each of the two awards.

COMMISSIONER WATLING: So what you are saying is the application for this award is part of restructuring for the industry and you are divided into wholesale and retail?

MR EDWARDS: Gee, I wish I had said that. Exactly what I was saying, commissioner, and in that regard it has our full support.

The parties do have a timetable that they will continue to pursue in respect of the creation of the provisions for this award.

We understand the limitations that we can't now come back to the commission for another 21 days. We would, however, seek from the commission a date that we could return to the commission to deal with the second step in this process, being the parties and persons bound aspect, and no doubt immediately following that we would also come back the commission with a detailed set of wages and working conditions, although I can't guarantee that would be 21 days after the parties and persons bound.

But we do have a program which we are working to and I think it is fair to say we are making a fairly significant progress.

All that aside, sir, we would ask that the proposed award be made with operative effect from the beginning of the first pay period to commence on or after today, although the first pay period is not particularly important - on and from would be just as easy.

If the commission pleases.

COMMISSIONER WATLING: Any further submissions? Well, I can indicate to the parties I am going to grant the application to establish a new award to be called the Retail Pharmacy Award and the scope will be in line with the amended G.1, and it will be operative from today.

I indicate to the parties that I will hand down a written decision in due course with an order attached. It will also include the provision that the Chemists Award will apply until this award is made in its entirety.

I would suggest to those organisations that feel they may have in interest in this award to get an application in seeking an interest in it as soon as possible.

The hearing wouldn't - even though the applications may be lodged the hearing wouldn't be conducted until after the 21 day expiry period - appear period, I should say - has expired. But if the applications were in then the commission should set them down for hearing as soon as possible, so I would suggest don't wait for the 21 days to lodge. You can have them in and sitting there waiting for the 21 days to tick over.

That's about all I have to say, and then after we look at those organisations that may have an interest in the award then those organisations will go ahead and make it in terms of wage rates and conditions of employment.

I know this is only the first hearing but the main protagonists in this application may wish to talk to other unions to either (a) allay their fears in terms of coverage so as we only make the award with those people that have an interest in it. We don't want unnecessary applications for interest in an award if people (a) don't have members, don't have constitutional coverage in the area, and keeping in mind that it is a retail pharmacy industry and the parties to the retail pharmacy industry may well be different to the foreshadowed wholesale pharmacy industry.

So, having said that, this matter is now closed. Thank you.

HEARING CONCLUDED