

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, 9 January 1995

TRANSCRIPT OF PROCEEDINGS

Unedited

COMMISSIONER WATLING: I'll take appearances please.

MR K. O'BRIEN: If the commission pleases, I appear on behalf of the Australian Liquor, Hospitality and Miscellaneous Workers Union, Tasmanian Branch.

COMMISSIONER WATLING: Good, thanks Mr O'Brien.

5 **MR T.J. EDWARDS:** If it please the commission, EDWARDS T.J. for the Tasmanian Chamber of Commerce and Industry.

COMMISSIONER WATLING: Thank you. Well, Mr O'Brien?

10 MR O'BRIEN: Mr Commissioner, this is an application to make a new award to be known as the Plant Bakeries Award, an award which is intended to apply to those bakeries that bake the bread, bread rolls and other products which are commonly found in retailing outlets: Coles, Purity, local corner stores; packed hygienically in plastic containers as required by law, as distinct from those bakeries who bake products substantially for sale at their own premises or who bake pastries, pies and cakes for sale elsewhere. This is predominantly the bakeries that can, I think, be identified as Cripps Bakery in Hobart, the Country Bake Bakery at Geeveston, Nu Bake Bakery in Launceston and Bass Bakery in Burnie, I think, subject to any new operations opening up.

20 It is the intention that, as a consequence, the Bakers Award would be - and there would need to be an application to do this, amended to exclude from coverage those employers who would be covered by this award. And the Bakers Award would continue to operate for the remainder of the industry.

25 It is our view that these operations are significantly different from the operations of other bakeries in terms of how they bake their product. Indeed the hours clause of the current Bakers Award differentiates between these operations and other operations in terms of the standard hours. It is a very complex provision in the Bakers Award at the moment and we're hopeful that in the creation of this award a more understandable clause can be created in this award and will be left remaining in the Bakers Award as a result of the exercise.

30 We're also seeking to include a career structure consistent with the standards which have been established in other awards, both before this commission and before the federal commission using the standard trades rate as a benchmark 100 per cent rate and flowing through to the various classifications covered.

35 We understand that the situation between the employers and my organisation is that some time ago there were discussions about the creation of this award. At that time my organisation had quite a different relationship with the Bakery Employees' and Salesmen's Federation. There was an agreement to follow this path but it appears that the political situation between organisations meant that we weren't able to give effect to what was - what appeared to be at that stage a consensus view that this was the path to follow. And as a result the employers, as I understood it, withdrew their agreement.

40 We've chosen to place this matter before the commission because we believe it is the appropriate path to follow. We believe that there are advantages both for the employees and employers in this exercise. It is our intention, following the creation of the Plant Bakeries Award, with appropriate terms and conditions, to fulfil the other part of the proposal which was before us, which was to negotiate on an enterprise level on any peculiarities which are relevant to any particular enterprise as distinct from the generality of coverage of this section of the industry by the award.

Mr Edwards advised me before today's hearing that he would be seeking that the matter adjourn for - I think his words were 'a couple of weeks' to allow him to have further consultation with his members. And we are anxious that we get back to a consensus position in relation to this matter and would be prepared to consent to such an application on the basis that we are not unduly delayed and hopefully that we can come before the commission at a fairly short time with an agreed position that is to pursue the creation of this award. And I guess that's all I wish to say at this point.

COMMISSIONER WATLING: Right. Mr Edwards?

MR EDWARDS: Yes, thank you, commissioner. Mr O'Brien has rightly flagged to the commission that I have asked him for the indulgence of an adjournment of this matter to enable me to seek better instructions than those I have at the moment from my members. So the commission might be aware of what I have done, I have written to all of my members upon this application being made to the commission that would be covered by its terms, or those that I perceive would be covered by its terms, and I've asked them to indicate to me their position in respect of the application.

Each of them have responded to me, three in the positive and one in the negative, which creates something of a problem for me and need not be something at the end of the day that will bother the commission or Mr O'Brien. But as Mr O'Brien has indicated the best course would be for this application to proceed by consent, if that is at all possible. I'm reasonably confident that I will be able to get that consent. Certainly there is significant level of support amongst my membership to the application, and I think the commission, as currently constituted, is well familiar with the situation that developed during the middle of last year when the agreement that Mr O'Brien has referred to was reached and the reasons why it no longer exists.

I don't know that it's quite fair to say that the employers withdrew their agreement to the proposal towards the end of last year. I think a more appropriate description would be an organisation of employees conducted ballots of its members who rejected the agreement, and therefore we indicated that we wouldn't be following through with it because there was no significant level of support from employees in the industry to the proposal that was put forward.

Now I guess it's splitting straws to some extent but I just wouldn't want the record to show that we withdrew from an agreement, because that's not strictly correct.

Having said that, commissioner, we would ask that this matter be adjourned for a period of approximately 2 weeks, which will enable me to call a meeting of all my members covered by the application to more properly canvas from them an industry approach to the application, rather than the individualist approach which I'm faced with at the moment, which would serve to create problems for me in putting proper submissions to the commission. I would probably have to put a two part submission and that to me would be unsatisfactory.

COMMISSIONER WATLING: Mm. I think if you're in agreement is certainly going to be better. I notice Mr O'Brien flagged that there's something to be done at the enterprise level. Well that could well be done.

MR EDWARDS: That's right. The position between us is that we've discussed the creation of this award and I can't say at the moment there is agreement to it. There is a significant level of support to that approach but it is also agreed between us that individual peculiarities would be dealt with at the enterprise level by way of enterprise level agreements. And that seems to us to be the appropriate way to go. We have a foundation industry award from which will stem a number of enterprise agreements.

COMMISSIONER WATLING: Yes.

MR EDWARDS: So it's on that basis, sir, that we would seek an adjournment for approximately 2 weeks to enable that course to be followed.

COMMISSIONER WATLING: Right, well we might just go off the record and have a look at the -

5 **OFF THE RECORD**

COMMISSIONER WATLING: Well I've heard submissions from the parties, especially in relation to the adjournment. I'm going to grant the adjournment and this hearing will reconvene to consider the application before me, on Tuesday the 24th January, commencing at 10.30. This matter now stands adjourned.

10 **HEARING ADJOURNED**