

TASMANIAN INDUSTRIAL COMMISSION
Industrial Relations Act 1984

T No. 5374 of 1995

IN THE MATTER OF an application by the
Tasmanian Chamber of Commerce and
Industry Limited for a hearing to vary the
Welfare and Voluntary Agencies Award

re exemption from nominated
superannuation funds for Self Help
Workshop

ACTING PRESIDENT

GEORGE TOWN, 28 June 1995
continued from 4/4/95

TRANSCRIPT OF PROCEEDINGS

Unedited

ACTING PRESIDENT: Thank you. Any changes in appearances?

MR A. FLOOD: Only that Mr Kingsley will not be able to appear for Self Help Workshop. He notified my office yesterday that he had another matter that would necessitate him not being able to attend.

5 ACTING PRESIDENT: Fine. Thank you. Well - sorry.

MS B. SHELLEY: And we've got no changes in appearances other than that I'll be presenting.

10 ACTING PRESIDENT: Fine. Thank you, Ms Shelley. I think there's no need to recap over the history of this matter too much. I think the parties are already aware that the application is to vary the superannuation provisions in the Welfare and Voluntary Agencies Award and I had encouraged and perhaps persuaded the parties to ensure that everything is done - was done - to make sure that the employees were in a best possible position to make an informed decision as to what they desired in relation to this particular matter, and I had adjourned the hearing twice before, I think, to enable that to happen. So could I be brought up to date please.

15 MR FLOOD: Yes -

ACTING PRESIDENT: Mr Flood?

20 MR FLOOD: - since the last hearing, the employees of Self Help Workshop have been addressed by the three superannuation administrators. As we discussed, that is Tasplan, HESTA, and Mercantile Mutual. They've also been addressed, as I understand, by the HSUA, and a ballot paper was drawn up by the HSUA and which I - I agreed to.

25 The ballot paper was - was essentially that the employees stated that they are satisfied that they'd been given every opportunity to obtain and consider information regarding which of the three funds they wished Self Help Workshop to make contributions to and they then indicated further that after having considered all of the available information they made their choices to which of the three funds they wished the contributions to be made. That ballot was overseen by Tom Kleyn from HACSU and Barry Kingsley from the Self Help Workshop.

30 I have a report on by those persons in relation to that ballot. You've got a copy of that I assume? And I think you can see quite clearly from that, Mr Deputy President that the overwhelming choice of the employees is to have contributions made to the Mercantile Mutual fund.

ACTING PRESIDENT: Right.

35 MR FLOOD: I don't feel that I need to perhaps add too much more except that I believe the processes which have been attended to since the last hearing and the result of those clearly indicate that it is in fact the employees' wishes to contribute to Mercantile Mutual, and further, that that decision is a fully informed decision.

ACTING PRESIDENT: Right.

40 MR FLOOD: Thank you.

ACTING PRESIDENT: Yes, thank you. Ms Shelley?

MS SHELLEY: Firstly, I'd like to thank the deputy president for enabling the employees at Self Help Workshop to make their decision in a democratic matter - manner - with all the possible information made available to them.

5 The objective of the Health Services Union in this matter was to satisfy ourselves that the best interests of the employees were taken into account. I'll briefly outline our role in ensuring that that took place.

On the 26th April, the State Secretary, Mike Hall, and I met with employees at Self Help Workshop and explained our concerns regarding their desire for an exemption from the nominated superannuation fund.

10 Following that meeting on the 15th May, the Health Services Union sent an open letter to the employees of Self Help Workshop with a copy of the transcript from the last hearing attached. And I'll just submit that.

ACTING PRESIDENT: Thank you. Mr Flood has a copy too, does he?

MS SHELLEY: Yes.

15 ACTING PRESIDENT: Yes? Thank you. Thanks, Ms Shelley.

MS SHELLEY: Finally, after HESTA, Tasplan and the Mercantile Mutual Employer Sponsored Master Fund had each addressed the employees, the Health Services Union conducted a secret ballot on the 31st May, the result of which Mr Flood just informed you of.

20 The votes were counted by and in the presence of Tom Kleyn, who is our Health Services Union industrial officer and Barry Kingsley, the general manager of Self Help Workshop. And I'll just also hand up the result of that ballot.

Tasplan and HESTA received no votes. Mercantile Mutual received six and two votes were informal.

25 ACTING PRESIDENT: Thank you.

MS SHELLEY: Thus whilst I must express our surprise at the result of the ballot, we are satisfied that the process was fair, however we will continue to provide information to the employees regarding this matter.

30 Again, we thank you for your assistance in having this matter resolved in a fair and equitable way. If the commission pleases.

ACTING PRESIDENT: Thank you very much. A technical right of reply, Mr Flood, in relation to your application?

MR FLOOD: No. Thank you.

35 ACTING PRESIDENT: No? Very well. Well I congratulate everybody on the way they have co-operated to do their very best from all sides to make sure that the employees knew all of the facts which they ought to have known before they made such a responsible decision as - as to which fund was to manage their contributions, whether those contributions were from the employees directly or indirectly from the employer, and I think that that's a fine example of the co-operation which - which should apply
40 in these particular sorts of cases which are very important, I believe.

And I think that there is a considerable responsibility on the employees and with the best of intentions of everybody we wouldn't want to end up in a situation where down

5 the track employees are going to get a report of exactly what their entitlements are, particularly I suppose when they are nearing the age when they'll need to retire, and certainly in this case there'll be no way they can say, well, we weren't given all the information that we should have; if we had have known we might have made a different decision.

And I think even from a legal perspective that it's important that employees can't shift the blame to anybody else for the decision which really is theirs and these times it's not uncommon for people, unfairly, to look for scapegoats in important matters affecting their lives.

10 But anyway, all of the evidence and material which has been submitted to me today certainly makes me feel comfortable about granting them the application to vary the award in the way sought which will allow Mercantile Mutual to become one of the alternative funds which is available under the WAVA Award.

15 Could I have some advice in relation to what would be an appropriate date to vary the award?

MR HALL: Just as a matter of clarification, Mr Deputy President, are you saying that the award will be varied for all WAVA Award employees or is this just simply Self Help?

ACTING PRESIDENT: Well, let's look at the application.

20 MR HALL: The reason I ask you is because it is only Self Help employees that have had that opportunity.

ACTING PRESIDENT: Yes.

MR FLOOD: My intention when making the application, Mr Deputy President, was only to include employees of Self Help Workshop.

ACTING PRESIDENT: Okay. Well that clarifies it.

25 MR FLOOD: I was looking for my - the wording but I'm certain that that's all that was implied.

ACTING PRESIDENT: Right. Okay.

30 MR FLOOD: As to an operative date, I was initially going to suggest from today's date, however that would leave Self Help Workshop in a position of contributing to the wrong fund as of this date.

ACTING PRESIDENT: Well look, I mean the award will be that there will be an added insurer which may be utilised from this time forward by the employees of Self Help Workshop. I mean I don't - I can't see -

35 MR FLOOD: Yes, actually that is correct. Yes, it is only affording them an extra option.

ACTING PRESIDENT: That's right.

MR FLOOD: Yes. That is correct.

ACTING PRESIDENT: All right?

MR FLOOD: I'd be satisfied with today's date, Mr Deputy President.

ACTING PRESIDENT: Okay. Right. No objection to today's date?

MS SHELLEY: No.

ACTING PRESIDENT: Okay. Today's date it shall be. - which is the 28th June, I believe. It's today's date anyway, whatever it is.

5 Well thank you everybody. I'll close the hearing.

HEARING CONCLUDED