

HEARING COMMENCED 10.05am

COMMISSIONER: I'll take appearances, please.

MR P. BAKER: Sir, I appear on behalf of the applicant organisation, P. BAKER.

5 COMMISSIONER: Thank you.

MR W.J. FITZGERALD: If it pleases, I appear on behalf of the Tasmanian Chamber of Commerce and Industry, FITZGERALD, W.J.

COMMISSIONER: Thank you. I take it we've had pre-hearing discussions and we've worked this through?

10 MR BAKER: Well, we would have done had I been able to discuss the matter with Mr Edwards. You may recall, sir - I do beg your pardon, it wasn't you previously that I had these discussions before, it was the president. On the last occasion when this matter was before you, in so far as these wage rates were concerned, there was a new formula
15 which was arrived at in respect of finalising the minimum rates adjustment process.

Unfortunately, Mr Edwards was away for some of last week and is away until, I understand Wednesday or Thursday of this week, and I've been unable to communicate with him as far as the proposed draft
20 order, which I've handed to your associate this morning - I have had a couple of brief moments with Mr Fitzgerald who - I'm not going to say this in a derogatory sense, but he appears to be somewhat confused by the methodology which we've used in respect of C7(ii), that is, the Associate Diploma without experience on commencement.

25 The figures in the draft order have been presented to you. As far as the methodology used, in so far as classification C5, 6, 7(i), 8, 9, 10 and 11, they are simply the third instalment of the process. So what has happened to date, or for this draft order -

COMMISSIONER: Just run it past me again? What numbers?

30 MR BAKER: C5.

COMMISSIONER: Start from the beginning. C1 and C2, C3 and C4 have completed their -

MR BAKER: Have completed their minimum rates adjustment process. So, there's no change in those figures as presented.

35 COMMISSIONER: C5?

MR BAKER: In C5, C6, C7(i), C8, C9, C10 and C11, there is simply the third instalment of the process.

COMMISSIONER: Third MRA. Right.

MR BAKER: So, the existing minimum rate adjustment figure which is shown in the award has simply been varied, if you like, by a third of the 25 per cent. So, in round terms, for example, if you looked at C7(i) which \$1764, if you were to round that off to \$1800 - it was previously \$1200 so we've just simply moved it to \$1800. So, it's 25 per cent or 50 per cent of the pre-existing figure which was shown in the award, to give the three quarters of the rate.

COMMISSIONER: So it's got one MRA to go?

MR BAKER: One MRA to go.

COMMISSIONER: In C7(ii) you altered the percentages, did you?

MR BAKER: We altered the percentages.

COMMISSIONER: The relativities?

MR BAKER: No, I'll rephrase that. What happened was, if you have a look, for example, and in particular if you looked at *after 3 years experience* at the 135 per cent figure, it shows an outcome of - total wage of \$29610. If you go back to the C6 level, at 135 per cent, the figure shows \$29546. Now, at the conclusion of the minimum rates adjustment process those two figures will be the same but when the award was originally restructured there was quite a considerable discrepancy between the figures and Mr Abey of the TCCI and myself devised a formula to, in effect, bring it all out so it was all wrapped up at the end of the day.

Unfortunately, when we were having discussions prior to this matter being before the commission on the last occasion, it was apparent that in fact we weren't quite going to succeed in our conclusion. Therefore, Ms Thomas from the TCCI - Mr Edwards and myself, if you like, devised a new formula to give effect to those figures and that formula, as I understand, is contained in exhibit T.2, from memory, which was presented to the commission in matter T6262 of 1996.

Now, I've spoken to Mr Fitzgerald this morning concerning that table and I believe that we can actually work through that. The next time around, sir, of course, all the figures that fall from the 105 to the 145 per cent figures in both areas of the wage table will of course be identical. They will in fact reflect each other, but there does need to be some further adjustment as far as those figures are concerned on this occasion and that's why I would perhaps have five minutes with Mr Fitzgerald and simply work through the draft order.

COMMISSIONER: Because if you look at the base rate in the relativities, they don't work out properly, do they?

MR BAKER: No, they don't and that was another thing. When the original decision was taken to restructure the award, rather than us going on to the correct relativities originally and then working it through, the old wage rates, so to speak, were left in the award.

5 COMMISSIONER: I have to say, that concerns me because there is absorption against the supplementary A column but if it was in the base rate there's no absorption against that. So some people could be getting monies absorbed that they're not entitled to have absorbed.

MR BAKER: Yes.

10 COMMISSIONER: You should really exhaust the base rate first.

MR BAKER: I understand that, sir, but there was reluctance within the industry to actually move to the new figures and it was left on that basis, that we would sort it all out in one hit when the final process was arrived at.

15 COMMISSIONER: So do you want to go off the record for a moment?

MR BAKER: Thank you.

OFF THE RECORD 10.15am

ON RECORD 10.30am

20 MR BAKER: Thank you for the adjournment, sir. In so far as this matter is concerned, the opportunity to have a discussion off the record has in fact been most helpful. We've undertaken to actually adjust the base rate in the award so that it in fact reflects the process as determined by the 1989 National Wage Case bench decision.

25 As a consequence of that, there will be subsequent changes made to the draft order as was presented to you this morning. Mr Fitzgerald, myself and the commission will work to finalise the draft order as a matter of priority, to fix it up. In respect of the application itself, perhaps I might just spend two moments on that.

30 This is the third minimum rates adjustment for classifications C5 to C11 in the award. There was an agreement between the parties that this process would in fact occur. It was last varied in and by a decision of the president in matter T6262 of 1996. We would suggest that the 12 months has well and truly elapsed between the adjustment and consistent with the commission's Wage Fixation Principles as
35 determined in 1997, we would request that the award be varied accordingly consistent with the revised draft order which the parties will prepare and present to the commission.

COMMISSIONER: When's the fourth MRA due for this group?

MR BAKER: It will be due in May 1999.

COMMISSIONER: They're a year apart?

MR BAKER: A year apart.

COMMISSIONER: Right. Now, the operative date - when the draft orders are presented?

5 MR BAKER: Yes.

COMMISSIONER: Right.

MR FITZGERALD: I don't think I need to say any more about that, thanks, Mr Commissioner. I suppose I'm at somewhat of a disadvantage because I only received the draft order this morning and
10 I can understand the concepts and I think, as Mr Baker indicated, given that there will be a further draft order presented for our checking and submission to the commission, that would indeed seem to be a sensible course in principle. We have no objection to the concept of the third MRA being applied to these rates and subject to the draft order
15 being presented, we would agree with the submissions of Mr Baker.

COMMISSIONER: Right. And the operative date?

MR FITZGERALD: We would agree with the operative date, that being the date that the agreed draft is presented to the commission.

COMMISSIONER: Thank you. No further submissions. Then it's in
20 the hands of the parties to provide the draft order to the commission. I'll hand down a written decision in due course. It will be in support of the third MRA for classifications C5 to C11 in this award and I'll wait to receive the draft order.

HEARING CONCLUDED 10.30am