

**TASMANIAN INDUSTRIAL COMMISSION**  
Industrial Relations Act 1984

T No. 6944 of 1997

**IN THE MATTER OF** an application by the Automotive, Food, Metals, Engineering, Printing & Kindred Industries Union to vary the Government Printing Office Production Staff Award

re restructuring of award

T No. 6992 of 1997

**IN THE MATTER OF** an application by the Tasmanian Chamber of Commerce and Industry Limited pursuant to section 29 of the Industrial Relations Act 1984 for a hearing to settle an industrial dispute with the Automotive, Food, Metals, Engineering, Printing & Kindred Industries Union

re clause 17 of proposed Printing Authority of Tasmania Award T6944 of 1997; and clause 16 of the proposed Printing Authority of Tasmania Industrial Agreement 1997 T6960 of 1997

COMMISSIONER IMLACH

HOBART, 29 May 1997

**TRANSCRIPT OF PROCEEDINGS**

Unedited

COMMISSIONER IMLACH: I'll take appearances.

**MR S. WALSH:** Mr Commissioner, WALSH, STEVEN - appearing on behalf of the Automotive Food, Metals, Engineering, Printing and Kindred Industries Union.

COMMISSIONER IMLACH: Thanks, Mr Walsh.

5 **MR R. MILLER:** MILLER, Roderick - and I don't have Mr Walsh's glib tongue for the - for the name of his new union. I'm representing, sir, the CPSU (SPSFT) - and I find that much easier to say. If the commission pleases.

COMMISSIONER IMLACH: Yes. Oh, well, there's a lot of madness around these days, so it's just a small element of it.

10 **MS J. THOMAS:** JENNY THOMAS appearing for the Printing Authority of Tasmania together with **GEOFF PRIESTLEY** and **TOM MORLEY**.

COMMISSIONER IMLACH: Thanks, Ms Thomas. Now we have received a dispute hearing notice which I presume is related to this matter and what I propose to do is bring it on with the parties' agreement, lay it on the table now, and see where we go from there. Is there any objection to that?  
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MR WALSH: No, Mr Commissioner.

COMMISSIONER IMLACH: Perhaps if you'd just call it please, Donna.

**MATTER T.6992 CALLED**

20 **MS J. THOMAS:** JENNY THOMAS appearing for the applicant and together with me **GEOFF PRIESTLEY** and **TOM MORLEY**.

COMMISSIONER IMLACH: Yes, thanks, Ms Thomas. I presume the other gentlemen are appearing the same as before. We won't go through all that. Thank you. Now I propose to join these matters but it doesn't mean that for the dispute, for example, is going to put aside the original application but I think from what I can make out it's going to have some effect.  
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Now having said that, is there any objection to that?

MR WALSH: No.

COMMISSIONER IMLACH: Now, having said that, who wants to kick off?

30 **MS THOMAS:** Well it might be appropriate that I make a preliminary submission, Mr Commissioner, because the employer will be seeking to adjourn each of the three applications before you today.

As you would be aware, Mr Commissioner, the parties appearing before you today were to seek the commission's approval for the Printing Authority of Tasmania Industrial Agreement 1997 and various amendments to the existing Production Staff Award. These matters have been the subject of extensive negotiations conducted through the Printing Authority's consultative mechanism known as the Industry Agreement Team comprised of representatives from management, employees and on-site unions.  
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40 The Printing Authority is in the unfortunate and somewhat unusual position of seeking an adjournment to these matters due to the emergence of an unexpected dispute between the authority and the AFMPKIEU concerning the application of the



flexible hours provision contained in the proposed variations to the award and the interrelationship between this clause and the sick leave provision contained in the industrial agreement.

- 5 The detail of the dispute is set out in our dispute application T.6992 of 1997. The matter in dispute is significant and really leaves the parties with no alternative but to return to the negotiating table.

I'll just read from our application and refer to the second last paragraph in that the applicant request that the matters in dispute be resolved before matters T.6944 and 6960 of '97 are heard and we seek the assistance of the commission in this regard.

- 10 At this very early stage in the dispute, Mr Commissioner, we would ask that the commissioner assist in the following manner: by adjourning the applications before you today in terms of - well, all the applications to enable further discussions between the parties to occur and by listing a report-back hearing at which the parties will report on the progress of those discussions.
- 15 Obviously the employer would reserve its right to ask the commission further via conciliation and/or arbitration if required in the future. If it pleases the commission.

COMMISSIONER IMLACH: Yes. Ms Thomas, before you sit down, I take it that the authority has discovered at this late hour some anomaly there that needs attention. Is that what it is basically?

- 20 MS THOMAS: The situation is that the authority and the AFMPKIEU have a fundamental difference concerning the application of the flexible hours provision and the sick leave provision that impacts on that clause, and as I said, the issue is significant. It has ongoing - it has an ongoing nature that the authority needs to consider and we really need to get back to the negotiating table to resolve this matter
- 25 because there is little point in putting agreed documents before the commission when in fact they are not agreed.

COMMISSIONER IMLACH: Yes. Thanks, Ms Thomas. Well, Mr Walsh.

- MR WALSH: Yes, Mr Commissioner. Well, I would certainly oppose the adjournment of these matters on the basis that we're certainly in the position today
- 30 following the emergence of the difference of opinion in the way in which these clauses are to apply but we've had a number of discussions with the authority in an effort to overcome those differences of opinion, they remain still differences of opinion and I really do not see much purpose in us going back to the negotiating table in an effort to resolve those differences. However I'll certainly bow to your
- 35 opinion in relation to that, Mr Commissioner.

- I just really want to say that we met - I had a meeting of all of my members on Monday. I put to them the difference - where the difference of opinion stood and that meeting of members on Monday unanimously endorsed that we seek the assistance of the commission in resolving that issue and that we would cop whatever the
- 40 decision the commission makes, as is the usual practice of my organisation; that if we come to the commission to seek resolution of an issue then certainly while ever I'm standing before the table I'll be - I'll be accepting whatever decision comes out of the commission.

- I see it as that the matter can still proceed. It's really a question of the application of an agreed - of a - of the award and the agreement so it's - there really isn't - I
- 45 suppose technically we don't have a dispute until such time as someone takes some sick leave, then there is a dispute in the way in which the clause is applied. So I would suggest that we proceed with the - with the registration of the award - with



the registration of the agreement - sorry - with the variation to the awards, the registration of the agreement and set a time - we can either do that today at some stage in relation to dealing with the possible disputes that may arise out of the way in which those two clauses are applied.

- 5 But I think when you hear the - when you have an explanation of what the two clauses and the effect that they have, that that would be the best way in which, I believe from my union's point of view, that we would seek to proceed. I think at this early stage that's all. I don't intend to go into the detail at this point.

- 10 COMMISSIONER IMLACH: Yes. Now, Mr Walsh, this is for all parties but as I understand that what you're saying is that you're seeking to have the award amendment agreed terms endorsed, shall we say, or investigated today and settled, and if there's a dispute coming after over those words, it would need interpretation, as I see it. Is that correct?

MR WALSH: That's the way I see. It's really an interpretation of the -

- 15 COMMISSIONER IMLACH: Of the words.

MR WALSH: - of the words.

COMMISSIONER IMLACH: Mm. Thanks, Mr Walsh. Mr Miller.

- 20 MR MILLER: I'm left in somewhat of an invidious situation as you can may well imagine. The matter regarding this particular dispute is not one which directly affects now or at some - well, possibly at some future stage but not envisaged at some future stage - the members in the clerical stream of which the CPSU represents.

- 25 I am happy to concur with Mr Walsh's suggestions and I would just point out from my own point of view that issues of concern are, I believe, far better eradicated from documentation prior to the documentation being formalised in any major sense. That doesn't mean to say that the proposition proposed by my colleague on my right is not feasible and viable. But I am content to bow to the judgment of the bench in this matter.

- 30 COMMISSIONER IMLACH: Thanks, Mr Miller. Have you changed your position at all, Ms Thomas?

- 35 MS THOMAS: Oh, just make some brief comments in response. I noted Mr Miller's comments that it is desirable that all irregularities whatever in the documents before you should be corrected before they are approved by the commission and I support that comment. In this case, as I said, we have a significant difference of opinion - understanding about the words contained in the award and the industrial agreement. These are matters that affect - or have the potential to affect the authority in a fairly fundamental way, depending on which way the decision would go if the commission were to rule on this issue at this stage, so we would ask that further discussions be allowed. At this stage the authority hasn't had industrial representation at those discussions and that is why we seek the opportunity to have further discussions so that the authority can be adequately represented given that the matter is of now some concern. If it pleases.

COMMISSIONER IMLACH: Yes. Thanks, Ms Thomas.

- 45 MR MILLER: Mr Commissioner, by your leave, I would stand again. Ms Thomas only but paraphrased my words, and for the record it should be recalled that it was my opinion as an individual that it would be in a preferable state of affairs to have

5 issues discussed and documentation laid down before the bench which was without rank or without dispute. However - and I think that my words were to the effect - given these particular circumstances I would support my colleague, Mr Walsh, in his application. I would not like Ms Thomas to take any comfort or succour from my words which - with which I used before the bench. If the commission pleases.

10 COMMISSIONER IMLACH: Yes. Thanks, Mr Miller. I understand your position. And I'll say this: that's why I asked Mr Walsh about the interpretation factor. Looking at it from a selfish point of view from my position, interpretation really means that I've failed to bring in a reasonable award; that's how I see it. It passes out of my hands and goes to the president for interpretation. The award should be able to be read and agreed on in its initial terminology by all parties. Interpretations are to be avoided at all costs.

15 Now as I say, that is really only a selfish angle on it but it's - nevertheless, it indicates a background position. But I think it's incumbent upon me at this early stage to refer the parties into discussions as requested by the chamber. This is the first time the original matter has come before the commission formally. I do note it as - it is at the eleventh hour but it's still a matter, as I see it, ought to be given the opportunity to be resolved first, so in that context I'm going to request the parties to go into the negotiations, and secondly, I'd expect that those negotiations ought to go 20 one way or the other within a short period, so I propose to go off the record so we can fix a time to return to get on with it. Now any objection to that course of proceedings? Mr Miller?

MR MILLER: No, sir.

COMMISSIONER IMLACH: All right. We'll go off the record thanks, Anne.

25 **OFF THE RECORD**

COMMISSIONER IMLACH: Thanks for that. Now I'm sorry about the frustration but it is - it seems to me to be a serious matter and therefore we'll adopt a fairly ordinary course of procedure, and in that context I've asked the parties to come back to me with an agreed date for resuming this - the hearing and hopefully the - I'll be 30 advised that the chamber doesn't wish to proceed with the dispute. If not, well that will be the first matter dealt with and then we'll get back onto the main subject - the application for the award amendment - and I've given the parties dates that I'm available sufficient so that they should be able to come back to me with a set time. Anything else on this particular matter? No? All right, well this - that matter - that's 35 T.6992 and the original application T.6994 are both adjourned until a date to be fixed and I just ask this - my associate to call on the final matter.

**HEARING ADJOURNED SINE DIE**