

TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984

T. No. 4783 of 1993

IN THE MATTER OF an application
by the Tasmanian Registered
Teachers Association to vary the
Independent Schools Tasmania
(Teachers) Award

re period of notice for
redundancy

COMMISSIONER IMLACH

HOBART, 11 January 1994

TRANSCRIPT OF PROCEEDINGS

Unedited

COMMISSIONER IMLACH: Appearances?

MR B.J. McFARLANE: Thank you. McFARLANE, B.J.

COMMISSIONER IMLACH: Thanks, Mr McFarlane.

MR W.J. FITZGERALD: Yes, thank you, commissioner. I appear on behalf of the Tasmanian Chamber of Commerce and Industry - FITZGERALD, W.J.

COMMISSIONER IMLACH: Thanks, Mr Fitzgerald. Mr McFarlane?

MR McFARLANE: Thank you, Mr Commissioner. The alteration to the redundancy clause results from some sort of fairly practical matters in that one term can vary between 16 weeks for example, first term, 11 weeks in the second term, 12 or 13 weeks in term 3, and for the sake of consistency we felt that 10 weeks was a better provision and it also bring it into line with the notice required for termination of employment.

The second matter is that a number of schools were not in a position really to - to know what their staffing would be for the following year at the beginning of term 3 and in a practical sense this gives them a more realistic time scale to prepare for their staffing allocations for the following year and to assess their staffing requirements.

In the course of discussions, it's understood by parties that 10 weeks is a minimum time and of course if they know that the redundancies are going to occur before then well the expectation is that the people or the person concerned will be given as much notice as possible.

COMMISSIONER IMLACH: Yes, thanks, Mr McFarlane. What - just go over that second reason again for me.

MR McFARLANE: The time that employers need to work on their staffing?

COMMISSIONER IMLACH: Yes.

MR McFARLANE: Yes, well normally when school resumes in the middle of September, under the terms of the clause at the moment, then anybody who may be made redundant needs to be given notice at that time, and schools are often not in a position at the beginning of the term to know precisely what their staffing requirements for 1994 are. Enrolments haven't been finalised for example, subject choices haven't been made by students and therefore 10 weeks back from the end of the year is a more realistic time for them to know precisely what their staffing needs are, and it may - it doesn't necessarily apply to people being made fully redundant but it could involve time changes in part time staff, teaching loads and things of that nature.

COMMISSIONER IMLACH: Yes. Do I understand it as it presently reads that if the notice was not given at the beginning of that term you would have to wait till the beginning of the next term - is that correct?

MR McFARLANE: Well unless there are extenuating circumstances.

COMMISSIONER IMLACH: That's what it says here at the moment is it?

MR McFARLANE: Mm.

COMMISSIONER IMLACH: Yes. So 10 weeks is more flexible of course in those circumstances.

MR McFARLANE: Well, I think 10 weeks is more realistic.

COMMISSIONER IMLACH: Yes. Alright.

MR McFARLANE: And often - if I can just make a further point - a number of schools now are operating on a semester basis even though the school term - the school year is still divided into three terms. In actual fact a number of schools run semester programs which are half year programs and within those programs there are often 10-week courses as well, so there's a lot more, if you like, flexibility in the courses that are offered and whether or not they actually run for part of whole of the semester or in the beginning part of the year or the second half of the year, and I think the 10 weeks tends to fit in - well it does fit in much better with the semester arrangements that are being introduced into a number of schools.

COMMISSIONER IMLACH: Yes, alright. Thanks, Mr McFarlane.

MR McFARLANE: Thank you.

COMMISSIONER IMLACH: Mr Fitzgerald?

MR FITZGERALD: Thank you, commissioner. I really haven't anything more to add except to indicate that it is a consent application really to rectify an obvious anomaly within the award and it does - it does bring it in line with other provisions and make it consistent with other provisions in the award and for those reasons I don't see any implications in terms of the Industrial Relations Act as far as the public interest or the wage fixing principles, it's more a mechanical routine matter which we're rectifying by this application.

And so for all those reasons we would - we'd seek the commission's endorsement of this application. If it pleases.

COMMISSIONER IMLACH: And the - could I suggest, Mr Fitzgerald, the operative from the date of decision?

MR FITZGERALD: That - that - I don't think that has any practical problems if it's operative from this date or is it more - or is it cleaner from 1st January?

MR McFARLANE: Well it makes no difference. The date from the decision would be quite acceptable.

COMMISSIONER IMLACH: Yes, well I suggest that, because then if it's backdated it might be construed as some sort of a trick to give earlier notice. I can't see it, but it may be.

MR FITZGERALD: No.

COMMISSIONER IMLACH: Alright, well I'll note that the parties agree that the operative date be the date of decision. I also indicate now that this application will be granted from that date.

Nothing else, gentlemen? Thank you. This matter is closed.

HEARING CONCLUDED