

TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984

T No. 2757 of 1990

IN THE MATTER OF an application by
the Metal and Engineering Workers'
Union for the making of the Metal
and Engineering Industry
(Tasmania) Award

COMMISSIONER WATLING

HOBART, 14 April 1992
Continued from 25/3/92

TRANSCRIPT OF PROCEEDINGS

Unedited

COMMISSIONER WATLING: I'll take appearances in that matter, please.

MR P. BAKER: Sir, I appear on behalf of the Metals and Engineering Workers Union, P. BAKER.

COMMISSIONER WATLING: Good, thank you.

MRS H.J. DOWD: If the commission pleases, I appear on behalf of the Federated Clerks Union of Australia, Tasmanian Branch, DOWD H.J.

COMMISSIONER WATLING: Good, thank you.

MR J. LONG: If the commission pleases, JEFF LONG appearing on behalf of FIMEE.

COMMISSIONER WATLING: Good.

MR S. CLUES: If the commission pleases, I appear on behalf of the Tasmanian Confederation of Industries, CLUES S.

COMMISSIONER WATLING: Good, thank you, Mr Clues. Right, no others? Right. Well, we'll get started. Mr Baker?

MR BAKER: Thank you, sir. I think in order to expedite the matter it may be appropriate that if we adjourn into conference under your chairmanship.

COMMISSIONER WATLING: Any objections?

MR CLUES: No objections, Mr Commissioner.

COMMISSIONER WATLING: No objections. No objections? No one is indicating they object? Right. Well, we'll go off the record, thank you.

OFF THE RECORD

COMMISSIONER WATLING: Mr Baker?

MR BAKER: Thank you, sir. Further to those discussions off record I am able to report to the commission that agreement has been reached, not only in principle but in content of the documentation which has been discussed between the parties and circulated to the parties during the time of our last hearing. It would be our intention at this stage to request that these proceedings be adjourned on the basis that the parties will deliver to the commission a draft order encompassing all those matters which have been previously discussed between the parties and the commission in the creation of a new award.

COMMISSIONER WATLING: Right. Do you actually want it adjourned or are you prepared to accept that - I'm prepared to accept that you could finalise your submissions and you will forward me the draft orders as soon as possible.

MR BAKER: In that case, sir, it would be our intention that these will be our concluding submissions.

COMMISSIONER WATLING: On the wage rates and contents.

MR BAKER: On the wage rates and the conditions -

COMMISSIONER WATLING: And conditions.

MR BAKER: - of employment. We would present to you a document which would be our agreed position, and that will be delivered to the commission over the next few days.

COMMISSIONER WATLING: Right.

MR BAKER: And, sir, just as a word of clarification insofar as the wage schedules are concerned, insofar as the classification structure is concerned and insofar as the conditions are concerned, they have been from the current Mechanical Engineers and Founders Award, with the exception of the clerical structure. I understand Mrs Dowd will address the bench on that issue shortly. So there will be no direct increases arising from a decision of this commission to support our application.

Insofar as other matters are concerned which arise out of this application there are a number of other applications which we have made to the bench which relate to it and I would draw the attention of the bench to it. Those matters relate to T.3722 of 1992, an application by MEWU to delete all clauses in the Mechanical Engineers and Founders Award.

In matter T.2756 of 1990, an application by the MEWU re the Metal and Engineering On-site (Tasmania) Construction Industry Award. Matter T.3736 of 1992 in relation by an application by the MEWU to vary the scope clause of the Metal and Engineering Award. In matter 3609 of 1992 an application by the AMWU to vary the scope clause of the Plumbers Award, the parties and persons bound. And in matter 3610 of 1991 an application by the MEWU concerning a determination of interest. All those matters have been heard by the commission, submissions have been presented in various forms concerning those applications.

And it would be our submission that those matters be joined with matter T.2757 of 1990; that is, the making of the new Metal and Engineering Award for a common operative date to be determined by the commission. And I think, sir, unless you have any questions, that would conclude my submissions in the matter.

COMMISSIONER WATLING: Right. In relation to the conditions of employment, I take it that you've completed the award modernisation process?

MR BAKER: I'm sorry, sir, yes. Yes. We have taken the conditions clause as they were - as they currently appear in the Mechanical Engineers and Founders Award and we have modernised the award.

COMMISSIONER WATLING: Now, does this see the actual conclusion then of the restructuring for this particular industry, except for the minimum rates adjustments for the clerical section?

MR BAKER: I think, for all intents and purposes of the foreseeable future, yes. I mean, there may be some things which may arise which we've inadvertently overlooked or what have you, but I would think that insofar as the structure and composition of the award is concerned I think there's very little - there will be little future scope for further reassessing the contents of the award.

COMMISSIONER WATLING: That's the off-site award of course.

MR BAKER: The off-site award, yes.

COMMISSIONER WATLING: Right, good, thank you. Who is next, Mrs Dowd?

MRS DOWD: Mr Commissioner, the draft order that is to be presented to the commission in the next day or so will actually show the clerical rates for clerical administrative people, and will include the first minimum rates adjustment in those rates. Future applications will be made to the commission for the second, third and fourth minimum rates adjustments which would be at 9-month intervals. And I believe that a translation schedule will also be included in the draft order. If the commission pleases.

COMMISSIONER WATLING: Good. Mr Long?

MR LONG: Sir, if the commission pleases, on behalf of FIMEE we would support submission by Mr Baker. We are in agreement.

COMMISSIONER WATLING: Thank you. Mr Clues?

MR CLUES: Mr Commissioner, the parties have put considerable time in the development of this new award, the result has been the implementation of a modern structure and associated definitions and also the integration of the clerks into that single structure. The end result is a 19-grade structure. I don't know if my membership will thank me for creating such a voluminous structure, but it has been evident from discussions

that it can't be modified to anything less than that at this point in time.

The TCI has made a number of compromises throughout this exercise including the relativities towards clerks. A letter has been sent to the clerks to that effect to indicate that that is done on a 'without prejudice' basis to our position in future cases. As we are currently examining each case on their merits, that includes both classification structure and relativities.

The TCI undertook out of this exercise to develop a wage schedule that incorporated the existing rates. The wage schedule that will be presented to the commission will have five columns in it, the first column will identify the new classification titles under each of the respective 19 levels. The second column will clearly identify the base rate and that base rate will be reflective of the appropriate relativity. The third column will be supplementary payments column which will identify the minimum rates adjustments and the broadbanding process that have occurred throughout the exercise which has been fully absorbed - against staff award payments. The fourth column will identify the total weekly rate and the fifth column will identify the wage relativity for each of those 19 levels.

The wage schedule will no longer have a reference to allowances for additional skills that currently exist. The new structure in its definitions recognises all the skills that are pertinent to that particular level. The new structure has also been amended in terms of unapprenticed juniors and apprentice rates because of the new classification structure - the previous base rates upon which reference was to be made for the percentages has been redefined and accordingly, that must occur in this particular award and they will now be put in line with the federal Metal Industry Award. That will result in some levels, a reduction in wages, but there will be a supersessions and savings clause in this award to indicate anyone who is currently receiving a particular rate will continue to do so. And then from when that rate amends, either by appointing a new apprentice or moving to the next year of service, they will then go onto the rate that appears actually in the award.

Likewise, the rates for junior clerks has been amended in accordance with the new structure because there no longer is a structure based on years of service. It's based on skill and as a result, their rates will be applied to the new classification structure. This will actually result in a wage increase for juniors, but given that is the lowest classification level which would involve the clerks under the new structure, we just have to cop that, unfortunately, but again, that's not designed to be a precedent, nor would it be in the future, just going to the highest common denominator.

It's just indicative of the flexible nature of the TCI in these matters. Likewise, the minimum rates adjustment -

COMMISSIONER WATLING: I've noted that it's been very flexible over the years.

MR CLUES: And you're commending us for that, Mr Commissioner?

COMMISSIONER WATLING: I just observed the point.

MR CLUES: Oh -

COMMISSIONER WATLING: I make no comment or judgment on it.

MR BAKER: Comments are made at appropriate times.

MR CLUES: Right. In relation to the minimum rate adjustment process for the clerks -

COMMISSIONER WATLING: A classic example was that first thing of clerks, you were very flexible in that first level, I note.

MR CLUES: Well I believe on that particular first level, I wasn't in fact flexible, but I take the commission's sarcasm with good humour.

COMMISSIONER WATLING: That wasn't sarcasm. That was a point I just noted.

MR CLUES: Again, you just note, but any way. Moving right along. In relation to the minimum rate adjustment process for the clerks, there has been agreement reached between the FCU and the TCI that the minimum rate adjustment process will occur in four instalments. Each instalment will be at least 9 months apart and each subsequent application to the first will be subject to application for each of the minimum rate adjustments, No.2, 3, and 4.

In relation to the conditions of employment. As has been -

COMMISSIONER WATLING: Is there any significance with the 9 months apart? Was there - ?

MR CLUES: That has been the agreed process for the implementation of the structure in the Clerical and Administrative Award and -

COMMISSIONER WATLING: So it's the same as that award?

MR CLUES: Yes.

COMMISSIONER WATLING: Yes.

MR CLUES: In relation to the conditions of employment, it is as has been indicated by Mr Baker that those provisions have been subject to minor changes throughout the modernising of the award which includes making the relevant provisions gender neutral. It also includes the removal of irrelevant clauses and provisions and there's been a considerable degree of discussion and finally, consent on those matters.

So basically the parties are before you today with a consent position, however, given the voluminous size of the award in itself and the number of variations that have had to be made in order to reach agreement, the parties are unable to present you with an agreed draft order today. Given that is the case, I would concur with the comments of Mr Baker that we will present you with an agreed draft order and then we'll leave it up to the commission to devise an operative date and I would see that hopefully that would be sometime after the 1st of May.

In relation to the translation schedule for clerks - just going back to the clerical provisions - I believe that it would be appropriate to have a schedule in there for clerks and I'll undertake to do that and I'll reach agreement with the FCU on that matter, hopefully.

And in relation to the question that was posed to Mr Baker about the restructuring process, I would see, under this particular award, it may well be near complete. However, I believe under the principles, I wouldn't like to close the door on the restructuring process if there were a change in the industry that - or in particular needs of our members that we would still be open to come to this commission and seek an award variation or whatever was required to reflect that.

COMMISSIONER WATLING: I was probably more interested in - from the view - does this file now close. Do you see this file now closing and anything after this being the subject of a fresh application?

MR CLUES: Yes, I would.

COMMISSIONER WATLING: Right.

MR CLUES: In that regard, I would.

COMMISSIONER WATLING: Look, I'd have to say to you that I don't think award restructuring really ever is concluded because things will change and just to move with the times, I think there's a need to bring applications before the commission to reflect what's going on to make the awards relevant, but I was just more - well I was certainly interested in relation to this application because we had the option of either, a) leaving it open for ever and a day, or saying, 'Well prima facie, it's finished, but there may be

some bugs down the line which we need to sort out', and I think maybe it is appropriate that it's done by a separate application. But anyway -

MR CLUES: In closing, Mr Commissioner, I'd just indicate that for my part I believe the parties have engaged in meaningful discussions. Those discussions have occurred over a significant period of time now. I also would like to thank the commission for its endeavours in assisting the parties in coming up with a document that hopefully will be close to word perfect, and given the nature of the exercise, I think it is good that the parties have been able to do that. There could have been potentially quite a few areas of difference given that it is the creation of a new award that has such a significant effect. Thank you, Mr Commissioner.

COMMISSIONER WATLING: Good. Thank you. No further submissions? Well, this matter will be now closed. I'll hand down a decision in due course. The decision will be to recognise this award and that is the Metal and Engineering Award in its entirety and I see us now heading to the next application which is 3722 of 1992. This matter is now concluded.

HEARING CONCLUDED