

TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984

T No. 3926 of 1992

IN THE MATTER OF an application by
the Tasmanian Confederation of
Industries to vary the Nursing
Homes Award

re wage rates, classifications,
definitions and conditions of
employment

T No. 3987 of 1992

IN THE MATTER OF an application by
the Health Services Union of
Australia, Tasmania No. 1 Branch
to vary the Nursing Homes Award

re wage rates, classifications,
definitions and conditions of
employment; restructure award in
accordance with the structural
efficiency principle

COMMISSIONER WATLING

HOBART, 19 October 1992
Continued from 28/9/92

TRANSCRIPT OF PROCEEDINGS

Unedited

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

MR R. WARWICK: If the commission pleases, RICHARD WARWICK appearing for the Health Services Union of Australia, Tasmania No.1 Branch.

COMMISSIONER WATLING: Thank you very much.

MR P.E. TARGETT: TARGETT, P.E., I appear for the Tasmanian Confederation of Industries.

COMMISSIONER WATLING: All right, thank you. Now on the last occasion we were together we adjourned to have further discussions. Maybe if I can be informed of the status of the application at this stage. Mr Warwick?

MR WARWICK: Thank you, sir, I am able to report progress in relation to the matter. We have had regional meetings of our shop stewards throughout the state in relation to the broad question of classification standards, the redrafting of the award and changes to conditions which may or may not apply.

We have a degree of consensus on a range of those matters. There are some outstanding matters which are not - not - have not been finalised. It is the feeling of the shop stewards generally that there a handful of matters that must be referred to the members at large in the nursing homes for their consideration. They're specifically matters relating to particular conditions of employment.

Mr Targett, as I understand it, has another document to put to you today. It is a subsequent document to TCI.1, which was tabled at the last hearing, which reflects all of the matters which are in agreement and we can certainly identify the matters that aren't. We also, as late as Friday, reached an understanding, and unless anything is changed on the weekend there's an understanding as to how some of the matters relating to the wage adjustments may be processed, subject to them being acceptable to the commission.

The situation from our point of view is really that just about all of the work's been done. There are really only a handful of matters that may or may not - and I say those words advisedly - they may or may not need to be arbitrated. It may be - in the end they may be able to resolve all of them. It may come down to there being really one or two matters that need to be arbitrated.

We would need a short period of time from today to do that; no more than a month, certainly. There is one aspect of the - of the process that does need to - in - need to be done and which involves the commission, and that is basically having a look at the document that Mr Targett intends tabling today and

going through that in a careful way to ensure that it complies with all of the commission's requirements.

And it would seem to me logical that that process would best be done off the record rather than by way of formal submissions from the parties in having the - the two of us appearing before you today on our feet.

COMMISSIONER WATLING: Right. Well maybe we'll allow Mr Targett to amend his application first and can I take it that all the matters contained in the arrangement of the document that's going to be tendered are the subject matters of the application?

MR TARGETT: Correct. Yes, that is correct, the way I see it. I'll tender an exhibit which is a document, if you recall, Mr Commissioner, at the last hearing, I tendered an exhibit, TCI.1 -

COMMISSIONER WATLING: Yes.

MR TARGETT: - this - which constituted basically an award. This exhibit is a document which is a consequence of TCI.1 being amended through negotiation, so it is once again an award.

COMMISSIONER WATLING: So you're amending your application and we're to call it TCI.2?

MR TARGETT: I don't think I'm amending my application, because TCI.1 actually didn't form part of the original application. I'm open to correction.

COMMISSIONER WATLING: Well, I want to make sure that we don't get caught -

MR TARGETT: Oh, so do I.

COMMISSIONER WATLING: - here, and that's why I'm saying to you, and I want to make it perfectly clear, if we haven't made it clear before, I want to make it perfectly clear that the subject matters contained in the arrangement of this document are the matters before the commission and form part of your application - the subject matters.

MR TARGETT: Then in that case, yes it is -

COMMISSIONER WATLING: Yes.

MR TARGETT: - and yes, I wish to amend my application from TCI.1 to that which is now presented as an exhibit today.

COMMISSIONER WATLING: Right, we'll mark this TCI.2 and this is the amended application and all the subject matters

contained therein under clause 3 - Arrangement, form part of the application.

MR TARGETT: That is my understanding, yes.

COMMISSIONER WATLING: Right. Any objection to that?

MR WARWICK: No objection, Mr Commissioner.

COMMISSIONER WATLING: Right. Now, Mr Warwick, I'll just point out to you that if you want any other subject matters included, then you will need to make application.

MR WARWICK: I understand we have an application for the restructuring of the award - the making and restructuring.

COMMISSIONER WATLING: Yes, but you haven't told me in that application that - what subject matters you want the bench to deal with.

MR WARWICK: Indeed.

COMMISSIONER WATLING: Now, are your subject matters the same as the subject matters contained in the arrangement in TCI.2?

MR WARWICK: Can I say they may be by the end of the day, sir, rather than at this point in time?

COMMISSIONER WATLING: Yes, because it is fairly imperative because if I go ahead and decide this, I want to know that the subject matters are before me.

MR TARGETT: Could I just ask a question, Mr Commissioner?

COMMISSIONER WATLING: Yes.

MR TARGETT: When you say the subject matters, you're talking about, for example, as one of the subject matters - annual leave -

COMMISSIONER WATLING: Yes.

MR TARGETT: - you're not saying the actual clause that I have within my document?

COMMISSIONER WATLING: No - no, I'm of the view that -

MR TARGETT: Yes, that's fine.

COMMISSIONER WATLING: - the contents of the annual leave thing is the claim.

MR TARGETT: Yes, that's fine.

COMMISSIONER WATLING: Right. The subject matter is annual leave. Now the commission has to - had an application dealing with the subject matter.

MR TARGETT: That's fine.

COMMISSIONER WATLING: The claim within the subject matter may vary; right, but as long as the subject is before me.

MR TARGETT: Can I make an aside?

MR WARWICK: Certainly, sir, if the arrangement constitutes the subject matter -

COMMISSIONER WATLING: Yes.

MR WARWICK: - and we're at liberty to have a view in relation to what - what benefits should apply in relation to each of those matters, then certainly we would amend our application -

COMMISSIONER WATLING: Right.

MR WARWICK: - to that extent so that the arrangement does reflect our - our application. There is nothing that we would seek to add to that list.

COMMISSIONER WATLING: Yes, right. Well, maybe we'll just go off the record for a moment.

OFF THE RECORD

COMMISSIONER WATLING: Well, let the record show that we've had considerable private discussion on this award matter and the parties have agreed to adjourn to Monday, 9 November, and Tuesday, 17 and Wednesday, 18 November. Is that your understanding, Mr Warwick?

MR WARWICK: Yes, sir.

COMMISSIONER WATLING: Mr Targett?

MR TARGETT: Yes, that's my understanding.

COMMISSIONER WATLING: Right, well this matter now stands adjourned.

HEARING ADJOURNED