

TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984

T No. 3789 of 1992

IN THE MATTER OF an application by the National Union of Workers, Tasmanian Branch to vary the Rubber Trades Award

re scope, supersession and savings, definitions, wage rates, allowances, annual leave, working hours, structural efficiency principle

T No. 3815 of 1992

IN THE MATTER OF an application by the Federated Clerks Union of Australia, Tasmanian Branch to vary the Rubber Trades Award

re implement new structure for clerical classifications, first minimum rates adjustment

T No. 3836 of 1992

IN THE MATTER OF an application by the National Union of Workers, Tasmanian Branch to vary the Rubber Trades Award

re increase wage rates and allowances by 2.5%

COMMISSIONER WATLING

HOBART, 12 April 1994
continued from 16/6/92

TRANSCRIPT OF PROCEEDINGS

Unedited

COMMISSIONER WATLING: I'll take appearances, please.

MR D. STRICKLAND: If the commission pleases, I appear on behalf of the National Union of Workers, Tasmanian Branch, STRICKLAND D.

COMMISSIONER WATLING: Good. Do you appear in all matters?

MR STRICKLAND: Yes, Mr Commissioner.

COMMISSIONER WATLING: Good. Thank you.

MRS H. DOWD: If the commission pleases, I appear on behalf of the Australian Municipal Administrative Clerical and Services Union, DOWD H.J, in all matters.

COMMISSIONER WATLING: Good. Thank you.

MR S. CLUES: If it please the commission, I appear on behalf of the Tasmanian Chamber of Commerce and Industry, CLUES S.

COMMISSIONER WATLING: Good. Thank you.

Now, is there any mileage in us going off the record first off to have a look at some of these things?

MR CLUES: I have prepared a new draft order for the commission which I was going to take the commission through. The position between the parties has changed substantially since last we came before the commission.

I don't believe off-the-record discussions will be necessary.

COMMISSIONER WATLING: Right. So, if I find some things when I leave this room, what do you expect me to do with them?

MR CLUES: If there are errors in the draft order, or concerns that the commission has, I'd be quite prepared to make myself available to discuss those concerns and hopefully allay them; and if further discussions are necessary with the other parties, then I will undertake to do that also.

COMMISSIONER WATLING: Right. Thank you.

MR CLUES: For the benefit of the commission I would like to submit a new draft order.

COMMISSIONER WATLING: Right. Is this your first exhibit?

MR CLUES: I believe it is in this matter.

COMMISSIONER WATLING: Right, we'll mark it TCCI.1.

MR CLUES: Mr Commissioner, when we last came before you the application was essentially to introduce a classification structure which was a discussion of structural efficiency exercise, and also to insert the first minimum rate adjustment into the award.

At that point in time the parties were divided in relation to the integrated classification structure and the division essentially arose from concerns that the clerical union had in relation to the relativities and definitions that would apply to their membership within the industry.

The commission made it very clear at that last hearing that if the parties weren't able to resolve their differences before today's date then the commission would be forced to arbitrate the matter, given the fact that the case had been in the commission's possession for some time.

The parties have had a number of conciliatory meetings and, as a result, we have come before the commission today with a consent position, and that consent position is essentially that which is entailed in the draft that I have submitted to the commission.

The document doesn't vary considerably from that which was discussed during the structural efficiency exercise, except to the extent that the classification structure has been varied in relation to how clerical definitions are located within the structure, and also the removal of one grade which was superfluous to the original document which was actually contained as an appendix in the award, and that has been removed.

For the benefit of the commission I will take the commission through the document one page at a time and just explain where the parties have found themselves today.

COMMISSIONER WATLING: Good. Thank you.

MR CLUES: Essentially, what we would like to see happen is have an integrated classification structure in the award that embraces all employees covered by the rubber trades industry.

The classification structure before you is a six grade structure, and it starts with an entry point at Tyre Retail Employee, Level 1, and it continues to Tyre Retail Worker Level 6.

There is a translation schedule attached, or forms a part of the wage schedule, which integrates all the former classifications, and that also appears in the document and I will make some reference to that.

But, at this point in time, it is significant to note that all classifications of the award have been integrated into the new structure.

Essentially the tyre retail employee, level 1, provides for an entry point into the industry and provides for basic labouring, housekeeping, and assistant-type duties, and those type of people are under direct supervision.

Tyre retail level 2 embraces the previous tyre serviceman Grade 1, tyre serviceman Grade 2, factory hand, delivery salesperson.

It also is designed to provide a wider focus to that classification and it talks about the quality of supervision and also the indicative tasks that would be required at that level.

You'll note at this point in time that each grade within the definition structure does have identified what the proposed relativity will be.

The word proposed being there as a result of the fact that we are only on the first minimum rate adjustment and there will be another two to come - another three to come, sorry.

In relation to tyre retail worker Level 3, that's basically designed to embrace the indoor salesperson, the commercial traveller, and the wheel aligner non-tradesperson.

Tyre retail worker level 4: there isn't specific reference to any old classification but it simply provides another level of progression within the structure. So that you have an integrated structure that allows for progression of skills, and obviously recognition of that through an increase in remuneration.

Tyre retail worker level 5 embraces the wheel aligner tradesperson and also a clerk who is in charge of work of more than two employees, and also three and four employees.

The final grade is tyre retail worker level 6, and essentially that is a clerk. Somebody who is responsible for the work of more than five employees, and that's detailed under the translation schedule.

But it also talks about somebody who provides automotive parts interpretation, inspects products, and the like, and checking vehicles to ensure that tasks are completed to customers, manufacturers and specifications.

We would divide the definitions clause into two sections.

One would be Section A which would embrace the classification definitions, and then there would be a Section B which would just have the traditional general definitions that have always existed under the award.

There are no additions or deletions to those.

The next clause is the wage schedule and we would seek to delete the old wage schedule due to the integration of all the classifications into the new structure and insert a new one.

The new structure would simply have six levels in it. It identifies those in the first column; identifies the wage relativity.

The base rate has been specifically calculated in relation to those relativities, so that each base rate represents, say, 78% of the tradesman's base rate, which is 365, I believe.

COMMISSIONER WATLING: So the base rate are fully exhausted in terms of relativities?

MR CLUES: That is correct.

COMMISSIONER WATLING: Right.

MR CLUES: We believed it appropriate to do that at this stage because it often becomes complex down the track trying to work back where the base rate and supplementary payments lie.

So, for the convenience of all and in order to ensure accuracy within the award, we have taken the time and trouble to do it in the first minimum rate adjustment.

Supplementary Payment A represents not only the first minimum rate adjustment but also the broadbanding increases that arose during the structural efficiency exercise.

And Supplementary Payment, Column B, is obviously the \$8.00 safety net increase that was awarded earlier this year.

And the Total Wage column is the sum total of the base rate, the Supplementary Payment A and Supplementary Payment B.

COMMISSIONER WATLING: When you say the first minimum rate adjustment, this will be the first -

MR CLUES: Of four.

COMMISSIONER WATLING: Right. And, whilst we are on that, if the first of four MRA's is included have you reached some agreement as to the period which MRA's are held?

MR CLUES: Yes, they are to be in 6-monthly instalments.

COMMISSIONER WATLING: So, you have got another three instalments to come.

MR CLUES: Yes.

COMMISSIONER WATLING: Of which separate applications will be made as we all understand. Right.

MR CLUES: Mr Commissioner, the next issue that needed to be resolved between the parties pertain to that of junior rates. You couldn't very well have an integrated structure and then have two separate ways of calculating juniors.

As a result of the integrated structure we also need to have an integrated method of calculating junior rates.

Now there were two different systems that operated under the previous award.

In relation to production employees what happened was there were defined percentages there and they were based on the appropriate grade depending on the work that they were doing.

And in relation to the clerical people they had slightly lower percentages and they were fixed to the second year adult rate.

So what the parties have agreed is that we will adopt a higher junior percentages but we will fix them to the tyre retail worker Grade 2.

So it was really an amalgam of the two concepts, and that required - there is no real loss to the production employees in that most juniors wouldn't be working at a higher grade than the tyre retail worker level 2, and the clerks have some slight benefit in that whilst they are still fixed to a particular rate the junior percentages are higher.

It is our belief that the industry can absorb this cost in light of the fact that there are a minimal number of clerical juniors operating in the industry, and the TCCI has gone to the trouble of identifying this specific amendment to our members in AMAS and asking if there was any objection and none was received, and hence we assume that we have their consent.

COMMISSIONER WATLING: Now when we are talking about the total wage we have to make this language consistent with other awards, so we are really talking about the total weekly wage rate, aren't we?

MR CLUES: That is correct.

COMMISSIONER WATLING: So we've been through this exercise in other awards.

MR CLUES: For the TCCI's part, we have no objection to that particular amendment.

The following two pages simply integrate provisions that already existed within the award, including the translation schedule.

That will no longer be an appendix to the award, nor will the appendix that was there in relation to the definitions.

They will now form this draft order, and they are to be deleted.

The only other amendment is that amendment 3 where as a result of the integration of the two divisions all reference to Division A, Division B, conditions for employees in Division A allowances, conditions for employees in Division B, general conditions, estimating service, rest period, and the like, need to be deleted because they now become superfluous.

COMMISSIONER WATLING: Right.

MR CLUES: And that is the purpose of Amendment 4,5,6 and 7, simply to recognise that this is an integrated award and no longer do you need those conditions which are delineating Division A and Division B.

Mr Commissioner, the application -

COMMISSIONER WATLING: Can I just ask you a question in relation to why would you put tool allowance in with wage rates?

Because normally in the past we have tried to keep wage rates separate as opposed to allowances, unless it is a leading hand allowance, because there is some difficulty when you amend the award in terms of wage rates and you amend the award in terms of allowances with - it might be a cost-related allowance, which this is - then you have to delve into the wage rates section.

MR CLUES: Again, Mr Commissioner, your observations are pertinent and, for my part, I would have no objection if that were to form a new clause and a provision made in the arrangements clause identifying the fact that it is a specific clause.

COMMISSIONER WATLING: It's an allowance, yes, a tool allowance.

MR CLUES: And, on behalf of the TCCI, we would have no objection to that amendment if that were to occur.

As to the general intent of the application before the commission it is really a finalisation of the classification issue that arose out of the structural efficiency principle which is out of the State Wage Case of this commission 1989.

We are now in 1994. The parties recognise that this exercise is overdue. However, the document that comes before the commission is one of consent and obviously that is in the best interests of all parties.

The document has been the subject of considerable discussion and debate, and we believe that it is in the best interest of the industry and therefore does not offend section 36 or the public interest, is in accordance with the wage fixing principles, and subject to any questions the commission may have, we would seek ratification of the draft order that is presently before you.

COMMISSIONER WATLING: Right. Thanks, Mr Clues. Right, what do the union parties say in relation to this matter? Mr Strickland?

MR STRICKLAND: Thank you, Mr Commissioner.

We support the submissions of the TCCI given by Mr Clues, and just basically agree with everything he has had to say.

We support the two suggested changes to the draft order coming from the commission. That being, change the words, 'total weekly wage', and insert the tool allowance as a separate clause in the award.

If the commission pleases.

COMMISSIONER WATLING: Thank you. Mrs Dowd?

MRS DOWD: Mr Commissioner, the Australian Services Union also supports the submission put by Mr Clues, and we also agree with the changes that have been suggested by the commission in relation to the total weekly wage and the tool allowance as a separate clause.

If the commission pleases.

COMMISSIONER WATLING: Right. The parties agree, then, that this finalises the three applications that are before me?

MRS DOWD: Yes.

MR STRICKLAND: Yes, Mr Commissioner.

COMMISSIONER WATLING: Everyone is nodding. The record can't pick up a nod.

MR CLUES: Mr Commissioner, the TCCI acknowledges that the applications before the commission will be resolved by the hearing that has been progressed before yourself today.

COMMISSIONER WATLING: I take it that the unions are of the same view?

MR STRICKLAND: That's correct, Mr Commissioner.

MRS DOWD: That's correct, Mr Commissioner.

COMMISSIONER WATLING: Right. Now, the operative date of such variation? Have we a submission?

MR CLUES: The TCCI would seek an operative date from the first full pay period on or after the date of your decision.

COMMISSIONER WATLING: Right. Do you unions have a view on that?

MRS DOWD: Mr Commissioner, we were assuming that the operative date would be the first full pay period on or after today's date, which is the date that has actually been included in the draft order.

MR CLUES: The TCCI would have no objection to that.

COMMISSIONER WATLING: Well, I can indicate to the parties then that I'll hand down a written decision in due course, but I foreshadow that it will be in favour of the draft order as presented, namely TCCI.1, and it will be operative from the first full pay period to commence on or after today's date, and I would expect that parties make separate applications for future MRA's.

I note that you have foreshadowed that there are going to be three further MRA adjustments.

So you can leave the hearing with the understanding that the proposal you have put forward will be endorsed.

Thank you very much. This matter is now closed.

HEARING CONCLUDED