

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

COMMISSIONER WATLING

HOBART, 28 September 1992

TRANSCRIPT OF PROCEEDINGS

Unedited

COMMISSIONER WATLING: I'll take appearances, please.

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

COMMISSIONER WATLING: Thank you.

MR P. TARGETT: Mr Commissioner, TARGETT P.E., I appear on behalf of the Tasmanian Confederation of Industries.

COMMISSIONER WATLING: Good, thank you. Right, who should I turn to for a report on this matter? Mr Warwick?

MR WARWICK: Thank you, sir. Mr Commissioner, the matters before you come about as a consequence of our application in matter T.3589 of 1991 which was a full bench proceedings earlier this year - I am sure you will recall - which led to the making of a decision by the commission to grant paid rates status to the Nursing Homes Award, and I don't have the decision with me - I do have the decision with me - but without quoting from it, sir, the decision did say that the commission expected that fresh applications would be made as a consequence of that decision; and these applications are, in fact, consistent with that expectation of the commission.

The situation is that the parties have had an extensive set of negotiations in relation to all aspects of the award in accordance with the principles.

We are not able to report to you today that those matters are finalised. I can say that there are a set of understandings in relation to wage rates, but those understandings of course are predicated on there being an overall agreement in respect to all aspects of the award, or failing that, an agreement to disagree, if you like.

The matters in relation to salaries and classifications have not been the focus of our attention over the last few months because we've endeavoured in that period to concentrate specifically in relation to all of those matters which occur after Clause 8 - Salaries.

And, as I have indicated, there has been an extensive set of negotiations in relation to that.

And it really is that area in particular that I refer to when I say there isn't a final set of understandings between the parties.

We believe, Mr Commissioner, that it may be useful today, with your agreement, to go into conference and endeavour to flesh out some of those issues that are between the parties, and in particular to do that with the assistance of the commission.

We see that that certainly would be a useful course of action in relation to the time that has been set aside today. And I don't think I really need to report in any greater detail than that. If the commission pleases.

COMMISSIONER WATLING: Good. Thank you. Mr Targett?

MR TARGETT: Mr Commissioner, the statements made by Mr Warwick are certainly reflective of the position as we see it.

But I do have a document which I would hand up which is a document prepared by the TCI and supplied to the HSUA in an endeavour to put forward the position as the TCI would like it to be.

This document has been the subject of a substantial amount of discussion between the parties since it was supplied, and there has been agreement to change some areas of it, which aren't reflected at this stage in this document, but we do have the ability to inform the commission the types of things we are looking at changing from this draft document that we have put forward.

I believe it would be beneficial to the commission to have a copy of this, at least to enable the commission to see the path down which we are proceeding.

COMMISSIONER WATLING: We'll mark this then TCI.1.

MR WARWICK: Sorry, Mr Commissioner, that number?

COMMISSIONER WATLING: TCI.1.

MR TARGETT: It appears that we are running a bit short of funds and can't buy bigger staples at the moment, with my apologies.

COMMISSIONER WATLING: So, it is coming adrift.

MR TARGETT: It's coming adrift, and I will say no more.

Before adjourning into conference, and we certainly agree with Mr Warwick's proposal that we adjourn into conference to have discussions with the commission, I think there is one important point that I should raise at this stage and that is that subsequent to some extensive negotiations that have taken place there has been a federal log of claims served by the HSUA on all of the employers which are subject to this particular award, which does create concerns for us.

I do propose to hold discussions with the HSUA in an attempt to convince them that they should be withdrawing that log as far as the people concerned in the nursing homes area are concerned, but obviously we'd have concerns if that federal log is pursued, seeing as how it does cover in fact every place which would be covered by this award, and if it did go through to finalisation then, in fact, there would be no employers in this state covered by the Nursing Homes Award.

COMMISSIONER WATLING: We'd only be wasting the commission's time as well.

MR TARGETT: And mine, quite frankly.

COMMISSIONER WATLING: Yes.

MR TARGETT: So we do have some concerns in that area, which I raise for the information of this commission.

COMMISSIONER WATLING: It probably begs the question, why are we going into conference now?

MR TARGETT: Well, I am hopeful, Mr Commissioner, that the HSUA will in fact advise us that they do not propose to proceed with the federal log in respect to those people covered by the Nursing Homes Award. But I merely raise it for the information of the commission.

Other than that, Mr Commissioner, I am quite happy to go into conference and hold what discussions can be held to try and expedite this matter at all speed.

COMMISSIONER WATLING: Right. Mr Warwick, would you like to respond to this federal claim matter?

I'd have to say that if you are pursuing a claim in another jurisdiction that would - if to be successful - override what we are going to do, what value is there in pursuing this matter?

MR WARWICK: I'm afraid that Mr Targett's comments do place me at something of a disadvantage. I, in fact, haven't seen a copy of the log. I do have some understanding of in fact why the log has been served, and it may be more opportune for me to advise both Mr Targett and yourself off the record as to why that log has been served and what we intend in relation to it.

COMMISSIONER WATLING: Right. Well, at some stage, obviously, it will have to be made public.

MR WARWICK: Certainly. I appreciate that, sir.

COMMISSIONER WATLING: And, I would have to say to you that I don't mind sitting down with the parties working our way through so at the end of the day we come up with an agreed document, but if we're doing it to waste each other's time I'd have to say that there are many other matters I could be doing. But, anyway, they are some of the issues that we might discuss in conference then. Right, we'll go off the record, thanks.

OFF THE RECORD

COMMISSIONER WATLING: Right, this matter - we'll let the record show that we've had considerable off-the-record discussions in relation to a draft numbered TCI.1, and we've examined the contents of it to try and find out the areas that are agreed, the areas that are agreed in principle, the areas of disagreement, and the areas where we still haven't decided one way or the other.

Now, the parties require further time to consider their position, and that it's my understanding that they are requesting an adjournment until the 19th of October at 10.30 a.m. Is that the position, Mr Warwick?

MR WARWICK: That certainly is the case from our point of view, Mr Commissioner.

COMMISSIONER WATLING: Mr Targett?

MR TARGETT: Yes, Mr Commissioner, that's correct.

COMMISSIONER WATLING: Right, we'll adjourn until the said date then, being the 19th of October. Thanks very much.

HEARING ADJOURNED