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AUSCRIPT

TRANSCRIPT OF PROCEEDINGS

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O/N 3461

**TASMANIAN INDUSTRIAL COMMISSION**

**COMMISSIONER T.J. ABEY**

**T No 12835 of 2006**

**AWU (TASMANIAN STATE SECTOR) AWARD**

**Application pursuant to the provisions of  
section 23(2)(b) of the Industrial Relations Act 1984  
by the Australian Workers Union, Tasmania Branch  
to vary the above award re increase expense based  
allowances in accordance with the State Wage  
Case Decision 2006**

**HOBART**

**3.30 PM, MONDAY, 13 NOVEMBER 2006**

**This transcript was prepared from tapes recorded  
by the Tasmanian Industrial Commission**

**HEARING COMMENCED**

**[3.36pm]**

PN1

MR R. FLANAGAN: I appear for the Australian Workers Union, Tasmania Branch.

PN2

MR P. BAKER: I appear on behalf of the Minister administering the State Service Act.

PN3

THE COMMISSIONER: Thank you. Yes, Mr Flanagan?

PN4

MR FLANAGAN: Thank you, Commissioner. Commissioner, this application seeks to vary the AWU (Tasmanian State Sector) Award to update the award in relation to expense based allowances. In the union's application, we have erroneously stated that we seek to vary the award to increase expense based allowances, in accordance with State wage case decision of 2006; that in fact is not the case. So I would first seek leave to amend the application so that the words "in accordance with the State wage case decision 2006" are deleted from the application.

PN5

THE COMMISSIONER: Any objection, Mr Baker?

PN6

MR BAKER: No objection.

PN7

THE COMMISSIONER: Yes, leave is granted, Mr Flanagan.

PN8

MR FLANAGAN: Thank you, Commissioner. Commissioner, these allowances relate to travelling, accommodation and overnight expenses which appear in the AWU (Tasmanian State Sector) Award in Part IV, clauses 2, 3, 4 and 10. I would seek to tender a proposed schedule of variation.

PN9

THE COMMISSIONER: Yes, I will mark that A1.

**EXHIBIT #A1 PROPOSED SCHEDULE OF VARIATION**

PN10

MR FLANAGAN: I would also - I should have tendered this at the same time - seek to tender a copy of a variation approved to the General Conditions of Employment Award by Deputy President Shelley, which took effect on 9 June.

PN11

THE COMMISSIONER: Yes, well, for completeness sake I will mark that A2.

**EXHIBIT #A2 VARIATION APPROVED TO THE GENERAL  
CONDITIONS OF EMPLOYMENT AWARD BY DEPUTY  
PRESIDENT SHELLEY**

PN12

MR FLANAGAN: Now, if I can take you to the fourth page of that second exhibit, just to illustrate the point. You will see contained there under variation number 3, where it talks about meal allowances, it deletes the amount of \$9 - it inserts \$9, \$9.90 and \$17.55.

PN13

THE COMMISSIONER: Yes.

PN14

MR FLANAGAN: If I can take you to variation 1, you will see that we have deleted the amounts of \$9, \$9.95 and \$17.55. There appears to have been some minor discrepancy in respect to that second figure of \$9.90 and \$9.95, but essentially the expense based allowances, contained within the award before you, attract the same remuneration as the rates of pay, which are contained in the General Condition of Employment Award. There are some allowances, particularly in variation number 6 which - - -

PN15

THE COMMISSIONER: Just, hang on, before - so I can follow that through, this is the current rates in the general conditions?

PN16

MR FLANAGAN: They are the rates, that is right, yes.

PN17

THE COMMISSIONER: So the current rate in the general conditions award is \$9, \$9.95 and \$17.55?

PN18

MR FLANAGAN: No, no, sorry, the current rates in General Conditions of Employment Award are \$9.30, \$10.25 and \$18.10. These are the rates from last year, which were then subject to further variation by the Commission this year.

PN19

THE COMMISSIONER: So what you are putting to me is that this application seeks to vary your award broadly in line with the general conditions of it.

PN20

MR FLANAGAN: Yes, that is correct Commissioner, yes. There are some discrete allowances.

PN21

THE COMMISSIONER: Yes.

PN22

MR FLANAGAN: In particular, variation number 6, which varies the camping allowance, that is not something which is contained within the General Conditions of Employment Award.

PN23

THE COMMISSIONER: Camping allowance is discrete.

PN24

MR FLANAGAN: And also variation number 7 is also discrete to the AWU award, as far as I am aware. Now, what we have done in arriving at those figures is applied the methodology which was used in the General Conditions of Employment Award. I would seek to tender a copy of that methodology.

PN25

THE COMMISSIONER: So make that A3.

**EXHIBIT #A3 METHODOLOGY USED IN GENERAL  
CONDITIONS OF EMPLOYMENT AWARD**

PN26

MR FLANAGAN: They have said - and this in fact is the methodology that was used in the General Conditions of Employment Award. You will see that what it does is effectively move expense based allowances by 2.98 per cent, so in relation to variation number 6 and number 7, which are discrete to the AWU State Sector Award, those expense based allowances have also been increased by 2.98 per cent.

PN27

THE COMMISSIONER: Yes.

PN28

MR FLANAGAN: So given that the proposed application in the main reflects movements which have already been approved by the Commission to the General Conditions of Employment Award, and given that the discrete allowances contained within our award are also moved by the same percentage, the AWU submits, and indeed, I think it is with the consent of the respondent, that the proposed application does not offend the requirements of the Act, and the application should be approved. If it pleases the Commission.

PN29

THE COMMISSIONER: Operative from 1 August 2006?

PN30

MR FLANAGAN: On that point, Commissioner, there has been some discussion around that issue. It is the union's understanding that in fact the

increase in expense based allowances has been applied administratively to our members. However, we are waiting on confirmation of that. So Mr Baker will contact both the union and your office today to confirm that. In the event that it has not been applied administratively, as the union believes it to be, then we would be seeking an operative date of the first full pay period on or after today. But if in fact it has been applied administratively, then we would be seeking 1 August.

PN31

And if I can just explain, Commissioner, the recipients of the benefit of the variation that are covered by our award are employees who are engaged as seasonal firefighters, who are required to travel and live away from home as it were for periods of time. They recommenced this seasonal activity on 1 September this year, so 1 August in a sense is a little academic. What is important is that if it has been applied administratively, then 1 August will accommodate that. If it hasn't, then we accept that going forward they will get the new rates of pay, and it is also important to recognise that it has been varied up to the March quarter of this year. We would envisage that the application to further vary the expense based allowances might be made a little earlier than has been the case this year. If it pleases the Commission.

PN32

THE COMMISSIONER: Thank you, Mr Flanagan. Mr Baker, what is your position?

PN33

MR BAKER: Thank you, Commissioner. The minister consents to the application in the terms that have been presented to you in exhibit A1. We also concur, or the minister concurs I should say, in respect to the operative date. Mr Flanagan and I did have a conversation literally at 3 o'clock this afternoon, and hence I am unable to confirm the issue of the operative date, but I have indicated to him that I should be able to do that by COB this evening.

PN34

So as soon as I have got that information I will advise the Commission and Mr Flanagan in relation to the operative date. But I would concur that if the allowances are being paid then I would concur with Mr Flanagan, the operative date should be from 1 August, and if not, as is indicated from the first full pay period on or after today. So consistent with the methodology that has been used since 1987, which was a temporary measure as I understand it - - -

PN35

THE COMMISSIONER: It is starting to have an endearing quality I suspect, Mr Baker.

PN36

MR BAKER: Yes. Subject to a further review, as I understand, the parties put it on that basis in 1987, we would submit that the application meets the principles of the Commission and it conforms with the public interest test, and therefore we would ask you to vary the award accordingly.

PN37

THE COMMISSIONER: Yes. Having heard the parties I am satisfied the application is consistent with both the wage fixing principles and the public interest requirements of the Act. The application is granted. The operative date will either be the first pay period to commence on or after 1 August, or 13 November, depending on the advice from Mr Baker as to whether or not it has been processed administratively, and I believe that is consistent with your position Mr Flanagan.

PN38

MR FLANAGAN: Yes, that is correct.

PN39

THE COMMISSIONER: On that basis the Commission stands adjourned. Thank you.

**ADJOURNED INDEFINITELY**

**[3.49pm]**

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