

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

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, 16 June 1992
continued from 27/5/92

TRANSCRIPT OF PROCEEDINGS

Unedited

COMMISSIONER WATLING: I'll take appearances, please, in those matters.

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

COMMISSIONER WATLING: Thank you.

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

COMMISSIONER WATLING: Thank you.

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

COMMISSIONER WATLING: Thank you. Who should I turn to in this matter? Mr Strickland?

MR STRICKLAND: Thank you, Mr Commissioner. When this matter was last before the commission on the 27th of May a number of issues were dealt with relating to the structural efficiency principle. There were a number of variations made to the award at that time to give effect to the structural efficiency principle, and a number of amendments made to that award.

That being, changes to the ordinary working hours to enable ordinary hours to be worked on Saturdays and Sundays; greater flexibility in the taking of annual leave; and the insertion of the structural efficiency principle, all of which is designed to give greater flexibility in the working establishments to give cause to the 2.1/2% wage increase that this application seeks to have granted by the commission today.

And there were also variations to the scope clause to clearly identify the establishments that this Rubber Trades Award would apply to. Over the past years there had been some confusion as to the scope of this award compared to the Automotive Industries Award.

In addition the application also seeks to insert a new structure, new classification structure, for a trial period to enable the parties to examine its appropriateness for the enterprises it seeks to apply, and if I could tender a copy of the proposed classification structure for testing.

COMMISSIONER WATLING: Is this your first exhibit? No, it isn't, I don't think.

MR STRICKLAND: I think it would be mine, as in me personally.

COMMISSIONER WATLING: Yes. Right. We'll mark it S.1, thank you.

MR STRICKLAND: As I have said, there are some differing opinions between the parties as to the appropriateness of this structure. We believe it is important that it is subject to a test period, and we would ask that it be attached to the award for a period of, I guess it would be in actual fact 5 months, because it is proposed that the 2.5% operate from the 27th of July with a further 3 months from that date for the first minimum rate adjustment to apply to the award.

And, as I said, there are a number of matters that are not ironed out sufficiently enough to insert the classification structure in it at this point of time.

We believe that it needs to be tested amongst the parties out in the workforce.

If I could tender a copy of the proposed wage rates, the new wage rates that would apply for the 2.5%, for those classifications affected by the NUW, and as I understand, Mrs Dowd -

COMMISSIONER WATLING: Mark this S.2, thank you.

MR STRICKLAND: - Mrs Dowd will provide the variations for the clerks.

So, with that in mind, Mr Commissioner, we would ask that the commission grant from the 27th of July the 2.5% wage increase consistent with the principles.

We believe the award has been sufficiently reviewed, and it is the ongoing process for it to be continually reviewed, with the aim to insert at the end of the test period a new classification structure acceptable to all parties to the award.

If the commission pleases.

COMMISSIONER WATLING: Thank you. Mrs Dowd?

MRS DOWD: Mr Commissioner, the Federated Clerks' Union supports the application by the National Union of Workers for the 2.5% wage increase.

I have a copy of the draft orders for the clerical classifications which actually has the 2.5% adjusted.

COMMISSIONER WATLING: Mark this Exhibit FCU.1. We might just go off the record for a minute.

OFF THE RECORD

COMMISSIONER WATLING: It seems now that the parties agree that Application T.3836 of 1992 being an application made by the National Union of Workers for the 2.5% wage increase and the agreed increases and allowances as currently before us.

Is there any alteration to appearances? Right. Mrs Dowd?

MR P. GRIFFIN: Excuse me, Mr Commissioner, I would just like to register an appearance on behalf of the Shop Distributive and Allied Employees' Association, GRIFFIN P.

COMMISSIONER WATLING: Good. Thank you.

MRS DOWD: Right, Mr Commissioner, the Federated Clerks' Union supports the application by the National Union Workers for the 2.5%.

In relation to the proposed classification structure for the Rubber Trades Award the Federated Clerks' Union has reluctantly agreed to the structure proposed by the National Union of Workers.

We do believe that within this particular industry Tasmania there is greater scope for clerical employees other than what is actually proposed in the classification structure forwarded by the National Union of Workers.

We seem to have a little bit of difficulty in relation to this with the National Union of Workers. They are claiming that the areas that the Federated Clerks' Union has actually contacted to find out about the proposed classification structure in Tasmania are actually covered under the federal award.

We have got no problems with them actually being covered under the federal award, but there is no clerical classification structure in the federal award and the employees in this state are actually paid under the Rubber Trades Award. And all other branches of the Federated Clerks union, New South Wales, Victoria, South Australia, Queensland, they all pay the clerical employees under the state awards. Now, the Federated Clerks Union would like the classification structure that is in the C&A Award here in Tasmania to actually be the classification structure that goes in the Rubber Trades Award. But as I indicated, we have agreed with this structure, but we believe it doesn't go far enough.

And I believe that during the testing period it will actually be shown that there are clerical employees in the state that should be covered under the state award as far as the clerical classifications are concerned and wage rates are concerned. The federal award just has an 'all others' classification which I believe Mr Strickland said was about 78% relativity. We don't believe that that is anywhere near sufficient for clerical employees in this state, and we believe that they should be equal to, if not greater than, what is in the C&A Award in this state.

We have agreed, as I said, reluctantly to this classification structure. There have been one or two minor amendments since the last hearing in relation to the classification structure. The type retail worker 3, proposed relativity of 87.4%, has VDU operation included in it instead of in the type retail worker 4, which we believe is the more appropriate area for it. I believe that the words 'for retrieving information' should actually be included after 'operating business equipment such as the VDU'.

COMMISSIONER WATLING: Has that been included?

MRS DOWD: No, it hasn't, Mr Commissioner, but -

COMMISSIONER WATLING:

MRS DOWD: - it was agreed between us, the National Union of Workers and the Federated Clerks Union yesterday that it should be included.

COMMISSIONER WATLING: And you've agreed on the amendment? You haven't?

MRS DOWD: Well, the National Union of Workers and the Federated Clerks Union agreed on that amendment yesterday.

COMMISSIONER WATLING: Well, I've got to arbitrate then, do I?

MRS DOWD: Well, it depends whether the TCI agree with that. But it was an agreed position between the Federated Clerks Union and the National Union of Workers yesterday. If Mr Strickland would like to comment on it, I've got no problems.

COMMISSIONER WATLING: Mr Strickland?

MR STRICKLAND: I must admit that those words have not been added. In conversation with Mrs Dowd yesterday she did - we did go through that point. But nevertheless this is merely a document proposed for testing to identify any problems. And as you can already see that there are a number of problems between the NUW and the Clerks Union in relation to what need for a clerical structure in this award. So, that's why we

believe that it's important for the - for this document to tested.

If - and I think that it's very clear from the differences of views that there's going to be a need at the end of the testing period for the commission to be involved in inspections to determine this matter.

COMMISSIONER WATLING: Well, why should I give a 2.5% increase if it's going to be such a big sort of review? Because the guidelines say you've got to have substantially completed your restructuring.

MR STRICKLAND: Well, I think it's true to say that we have substantially, it's just a question of some of these clerical tasks as to what level, at the end of the day, that they would fall. I think that the structure as proposed to the commission today, structure 1 to 6, with leave reserved for level 7, and the relativities proposed will, at the end of the test period, prove to be quite sufficient.

It may be that we find that some tasks out there of a clerical nature do justify moving up a grade, or some might need to come down a grade, that's just fine tuning. But by and large the percentage relativities as tested, I might say, quite extensively in the federal process and the subject of a number of appeals, and it could well be argued in the federal award that clerks are picked up by the 'not elsewhere' classified, with a percentage relativity of 78%. Because in our view the clerical tasks in this industry are somewhat limited.

But nevertheless, we're prepared, having sat down for a number of weeks now, to come up with the percentage relativities and try at best, as the parties see at this stage without actually testing the document, to slot people into a proposed grade, then it gives us some flexibility to move before we have a final document in the award maybe one or two employees or classifications where it's in level 2 it might be justified to go to level 3. Just minor adjustments to the proposal I would see. If the commission pleases.

COMMISSIONER WATLING: Right.

MRS DOWD: Mr Commissioner, I believe that we have gone quite a considerable way down the path in relation to the classification structure.

COMMISSIONER WATLING: Well, it seems to me you haven't got agreement on that point.

MRS DOWD: Not on every point in relation to the structure, Mr Commissioner.

COMMISSIONER WATLING: And that point you were wanting me to insert.

MRS DOWD: Well, they were the words that were agreed between Mr Strickland and myself yesterday. As Mr Strickland said, they're not a major sticking point in relation to the actual structure, it's only one or two words.

COMMISSIONER WATLING: Which level again, sorry?

MRS DOWD: This is in type retail worker 3, proposed relativity 87.4%.

COMMISSIONER WATLING: Mm. And what do you want to include?

MRS DOWD: After 'VDU operation' 'for retrieving information'. Because the majority of employees that actually utilise the VDUs do use them only for retrieving information not for putting in programs et cetera.

COMMISSIONER WATLING: Yes. What line are we talking about?

MRS DOWD: I beg your pardon, Mr Commissioner?

COMMISSIONER WATLING: What line are we taking about?

MRS DOWD: It's more than halfway down, 1, 2, 3 -

MR STRICKLAND: 10.

MRS DOWD: - 4, 5, 6, 7, 8, 9 - yes, line 10.

COMMISSIONER WATLING: Right.

MRS DOWD: Mr Commissioner -

COMMISSIONER WATLING: Well, Mr Clues, is there agreement on that?

MR CLUES: Mr Commissioner, there's been no discussions with - between the TCI and the FCU, and I feel that I've been somewhat ambushed by the FCU this morning in relation to this point. I would concur with the comments of Mr Strickland, that this is only a document for testing. And in that regard I would be prepared to concede that point this morning, provided that the clerks are under no misunderstanding that at the end of that testing period it may be the TCI's contention that those words are totally inappropriate and not truly representative of the skill worth of that particular level.

COMMISSIONER WATLING: Good. Anything further, Mrs Dowd?

MRS DOWD: Mr Commissioner, during the last hearing on the 27th of - of whatever date the last hearing was, you actually addressed Mr Richardson on that particular point of the VDU operation and he said it was for retrieving information only. Mr Clues did not object to those words at that particular stage.

COMMISSIONER WATLING: Yes, but I still come back to what I said on that last hearing: Why do people leave it till the day of the hearing to have discussions?

MRS DOWD: Mr Commissioner, we only received this document from the National Union of Workers - it's dated the 12th of June, which actually has the changed position of the VDU operation from tyre retail worker 4 to 3.

COMMISSIONER WATLING: Yes. yes, but you would have written to them saying: Arising out of the last hearing we would have - we've agreed to put this in.

MRS DOWD: No, we didn't, Mr Commissioner. I have been on leave and I have left this to other employees at the union, but unfortunately even the application for the 2.5% was not done while I was on leave. My apologies on behalf of the Federated Clerks Union.

COMMISSIONER WATLING: Right. Well, I'm not too sure we can complain too much about this if it hasn't been discussed prior to the hearing.

MRS DOWD: I wasn't actually complaining, Mr Commissioner, I was just making a point that those words had been agreed and had not been included on this particular document.

COMMISSIONER WATLING: Yes, but not agreed by the parties.

MRS DOWD: They were agreed by the National Union of Workers and the Federated Clerks Union.

COMMISSIONER WATLING: Yes, but - well, it's not true to say they've been agreed. They been agreed by one party to the hearing.

MRS DOWD: Well, that was all I stated, Mr Commissioner, that it was agreed between the National Union of Workers and the Federated Clerks Union.

The Federated Clerks Union does believe that during the testing period it will be clear that there are classifications that haven't been included in this particular structure. And I will leave it until the testing period is over to actually put forward to the commission where we believe those relativities should be. If the commission pleases.

COMMISSIONER WATLING: Right. Mr Griffin, have you anything to add

MR GRIFFIN: Thank you, Mr Commissioner, I'll just be very brief. Just that I'm here on this application we received, which is 3836, to vary the award by increasing the rates and allowances by 2.1/2%. I'd just like to agree with the National Union of Workers that - I believe that there's been enough work done as far as the classification structure has proceeded to advance the 2.1/2%. On behalf of the association, that is our view. Thank you, Mr Commissioner.

COMMISSIONER WATLING: Thank you. Mr Clues?

MR CLUES: Mr Commissioner, I'll respond to both matters in unison. Firstly, there has been some discussion put to you today by the NUW pertaining to the new classification structure and also the flexibility provisions that were discussed in our last hearing on the 27th of May.

The TCI believes that those increases and the program that were to you did at that point in time justify the second stage structural efficiency increase. And further, that the insertion of this classification structure as an appendix to the award continues that program to allow the persons in the field to actually be aware of the new structure and how it may affect their business. And the likely transition - the likely translation that in future employees into that new structure.

In relation to the difference that appear between the parties, namely the FCU, and the position held by the TCI and the NUW pertaining to clerical -

COMMISSIONER WATLING: So there will be a translation proposal in any draft, will there?

MR CLUES: No. What has - what has been prepared is a document that was originally sent to the TCI which does indicate where people will translate to. It would be my intention to forward that with an explanatory letter to our members to make sure that they are aware of the likely implications for their business.

In terms of persons who are not members of the TCI, I think attaching this new classification structure as an appendix to the award will in itself allow them to determine where existing classifications will fit. I believe the descriptors are fairly specific to each level and it should not be too difficult for anyone to work out where people will translate to, both existing and new employees.

In relation to the differences that exist between the clerks and the NUW and the TCI, I believe that as has been indicated

by the parties today they really are just a matter of fine tuning and further discussion. And I believe that if the FCU, at the end of that testing period, have any evidence to suggest that the structure is in some way inadequate, then I don't believe they will be shy in bringing those to our attention. And further discussions may eventuate and a consent position will be presented to the commission.

In the absence of consent, then the parties may be relying on the commission's assistance in order to resolve the matter. But nonetheless, despite those differences that do exist, the parties have gone a substantial way to restructuring this award. We now have a proposed revised structure which is all but complete. We have agreement as to the minimum rate adjustment process. There's been the introduction of a number of flexibility provisions which have been welcomed by the industry.

And I would argue that what has been done is in accordance with the requirements of the wage fixing principles of this commission. And further, it does not offend the public interest requirement as established under the Act. Given the latter, the TCI would have no objection to the insertion of the 2.5% wage increase to this particular award, operative from the 27th of July 1992.

Further, we would have no objection to the -

COMMISSIONER WATLING: pay period.

MR CLUES: First full pay period on or after that date, Mr Commissioner. Thank you. Further the TCI would have no objection to the proposed structure that has been tendered to you in the form of S.1, forming an appendix to the award during the trialing period leading up to the implementation of the first minimum rate adjustment.

Subject to any questions that the commission may have, that would conclude my submissions.

COMMISSIONER WATLING: Any further comment? No further comment. Then these matters are now closed. I'll hand down a written decision in due course. It will be in favour of the application.

HEARING CONCLUDED