



**TRANSCRIPT OF PROCEEDINGS**

*Fair Work Act 2009*

**COMMISSIONER WILSON**

**C2022/8485**

**s.739 - Application to deal with a dispute**

**Application by United Firefighters' Union of Australia  
(C2022/8485)**

**Melbourne**

**10.00 AM, MONDAY, 23 JANUARY 2023**

PN1

THE COMMISSIONER: If I can start by taking the appearances for the applicant, please.

PN2

MR H BORENSTEIN: Commissioner, I seek permission to appear for the applicant with Mr Bromberg.

PN3

THE COMMISSIONER: Thank you, Mr Borenstein.

PN4

SPEAKER: Apologies, Mr Borenstein. This is the UFU here, we can't hear a thing on our end, but I assume you can hear us because I have nodding heads. This seems to happen a lot with Microsoft Teams. I'm just going to play around with the different speakers and hope for the best.

PN5

THE COMMISSIONER: Let us know when you're able to hear us.

PN6

SPEAKER: I can see the Commissioner's talking but we still can't hear. I might just disconnect from this system and just use the laptop. Apologies, everybody.

PN7

THE COMMISSIONER: Thank you. We'll remain in the conference but let that occur. We'll give it a minute or two.

PN8

SPEAKER: I can now hear you just on this laptop, which means you're a lot closer than Peter and I, so I apologise for that.

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THE COMMISSIONER: No need to apologise for that. The recording is continuing, and I've taken Mr Borenstein's appearance. And for the FRV?

PN10

MR M HARDING: Yes, Commissioner, I seek permission to appear for the FRV.

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THE COMMISSIONER: Thank you. For the Minister?

PN12

MS R DAVERN: Commissioner, I seek permission to appear on behalf of the Minister. Ms Davern of counsel.

PN13

THE COMMISSIONER: Thank you, Ms Davern. Mr Borenstein, is there anything you wish to say about the intervention of the Minister this morning?

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MR BORENSTEIN: It's opposed, Commissioner.

PN15

THE COMMISSIONER: Do you wish to in that case, Ms Davern, give me some reasons as to the intervention?

PN16

MS DAVERN: Thank you, Commissioner. Commissioner, this matter arises by virtue of an application by the UFU in respect of a decision of you, Commissioner. That decision arose, in my submission – or lies purely on the basis of opposition by the UFU to submissions made by the Minister at that time. The Minister intervened in the proceedings before the Commissioner and at that time, Commissioner, you accepted that the Minister had a special interest in the matter.

PN17

In this case, the application arises – and I should note no appeal was made in relation to that decision to permit the Minister to intervene in that matter. The Minister is the minister responsible for FRV, which is a party to the – was a party to the dispute that the decision determined.

PN18

Section 590 of the Act confers on the Commissioner broad discretion to inform itself in any manner it considers appropriate. As I said, the Minister was given leave pursuant to section 590 to put submissions to the Commissioner at the hearing of the dispute, and no appeal was filed in respect of that grant of leave.

PN19

This application, in our submission, Commissioner, concerns those submissions put on the Minister at that hearing in respect of the fettering issue, and it raises the consideration to the extent and substance of those submissions made.

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For those reasons, and including that the orders sought by the UFU could have a significant financial and operational impact on the FRV which is the government agency for which the Minister is responsible, the Minister submits that it's appropriate that she be granted leave to intervene in this matter, Commissioner.

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I can take you to the submissions that were made at the time, Commissioner, by the Minister and the UFU in respect of the fettering issue if that's necessary.

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THE COMMISSIONER: That won't be necessary for me, Ms Davern. Is there anything further you wish to say?

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MS DAVERN: No, Commissioner.

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THE COMMISSIONER: Thank you. Probably it's appropriate if I turn to you, Mr Harding, to see whether there's anything you wish to say in respect of Ms Davern's submissions?

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MS HARDING: No, Commissioner. The FRV is agnostic as to the Minister's intervention and doesn't oppose it.

PN26

THE COMMISSIONER: The idea of agnostic as to a minister is interesting, but nonetheless I accept what you say. So, Mr Borenstein, is there any reply you wish to make to Ms Davern?

PN27

MR BORENSTEIN: There is. Can I firstly say that the idea of 'agnostic' doesn't carry with it a non-opposed point. So neither opposing or agreeing. But leaving that to one side - - -

PN28

MR HARDING: Having my cake and eating it too.

PN29

MR BORENSTEIN: We can have the philosophical discussions later. But can I say at the outset that the Minister's application is misconceived to the extent that it expresses itself in terms of intervention. There is no intervention in proceedings before the Commission. That has been abolished.

PN30

The capacity of the Commission to inform itself under section 590 isn't expressed in terms of an intervention, it's expressed in terms of the Commission seeking information or other assistance in the terms and in the ways which are listed in section 590. So that's the first point.

PN31

So then that takes you to the second point. The second point that Ms Davern seeks to make is, 'Well, we were heard in the first round of this proceeding and that should count for something.' That, again, fails to give proper weight to the difference between the application that we're making today and the application that was before you previously.

PN32

When we were previously before you, you were dealing with the merit, and you were hearing arguments about merit of the application for arbitration which had been submitted to you by FRV and UFU as a private – and I underline 'private' – arbitration. We objected to the Minister's involvement on that occasion, and you decided that you would be assisted by hearing the Minister not only on the content of the written submissions which Mr O'Brady had presented in support of his application. So it was a limited right to make submissions.

PN33

The submissions which were made addressed the concerns the Minister had about the services contract which is in dispute here potentially having an inappropriate and improper effect vis-à-vis the FRV legislation. That's why issues such as the fettering, and issues such as the Minister's direction not getting into the contract and so on were before you.

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One can understand that in those circumstances where the Minister has that particular interest, the Commission might be minded to hear those submissions, though we stand by the objection you made at the time. This is a different application. This is an application in a process which is a consent process between two parties, and only two parties; the FRV and UFU. This is not an ordinary application that comes before the Commission under the various provisions of the Fair Work Act.

PN35

It is described by the High Court as a private – underlining 'private' – arbitration, meaning it is an arbitration which has been proposed by two parties who are in dispute and are asking the Commission to assess with the resolution of that dispute. Therefore, by its very nature, the idea that some third party should have a role in the process for its own interest is, we say, antithetical to the whole concept, but particularly in relation to this application.

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Ms Davern said they made all sorts of applications about fettering and so on. In your decision, Commissioner, you did rule on those. You ruled on the various arguments about the effect of the legislation and on the fettering argument which the Commissioner put. We haven't appealed against that because we don't seek to overturn findings that you did make.

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Our concern – and this emerges from the application and the grounds for application which we made – is that the disposition of the application was done on a ground which was a ground that, in our submission, was not part of any of the arguments that were put. The sole purpose of the application that we make – and this is spelt out in our application – is to bring about a situation where we can address that single issue upon which you decided not to make any orders.

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You'll recall, Commissioner, that that was the issue that, although presently under the service contract the relevant company has undertaken to comply with the qualification requirements that exist under the enterprise agreement, you were concerned – and you expressed this concern – that in the future the company may go further and impose other or additional qualification standards. That's not a matter that was addressed by any of the parties. It wasn't an objection that was raised by the Minister. It's an objection that is easily responded to. It's easily responded to because neither the FRV nor the UFU ever intended that that would be a situation that would arise.

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Just as in the course of hearing you'll remember we addressed a concern about the ongoing operation of the service contract indefinitely into the future, and you'll recall that we addressed that by proposing an amendment that confined it to the life of the current enterprise agreement.

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The concern that you raised in your decision and which led to you dismissing the application is also similarly easily addressed in terms of a proposed amendment to the services contract. The terms of that amendment have already been – a draft of the terms of that amendment have been provided to FRV. As it's between the parties it may be that it's agreed and, if it's not agreed, then we would make submissions about it.

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But the purpose of this application is that simple focused purpose. There is no intent here to re-litigate what's already been litigated. There is no intent here to challenge or seek to overturn the findings that you've made on the submissions that have already been put. All that's involved here is one of the parties who had consent to arbitration is seeking - hopefully with the support of the other party – to have an opportunity to address and resolve an issue which, as between the parties, was never an issue but, in view of the Commission's concern, is an issue which can readily be resolved.

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It's therefore completely unnecessary and, we would say, legally inappropriate for the intervention of the Minister. The Minister cannot add anything to the discussion. Ms Davern suggests that we will want to be canvassing the submissions that the Minister made and so on, and that's certainly not our intention. Our case will turn entirely on having regard to the record, what was said on transcript, what was said in the written submissions.

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We will point you to the fact that nowhere in those materials is there a reference to the particular concern which you raised. And if we are right in that, then we will invite you to allow us an opportunity to address that particular concern. I'm not going any wider than that. And that is a concern which is straightforward and is one which we don't anticipate is going to be contentious as between the FRV and the UFU. We say there's absolutely no assistance or value or utility in the minister inserting herself into this process. There is no submissions that she can make that can change the record before the Commission. And it's the record that will stand, not what the Commissioner – how the Commissioner interprets the record. And if the record is as we say it is, then the consequences which we ask for, are consequences which will most effectively, and efficiently, and speedily resolve or distil an outstanding dispute following your decision.

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Now, the minister in her application seeks to make something of the fact that we did not file an appeal against your decision. And it's correct. We didn't file an appeal against your decision. And there is no necessity for us to do that. Section 603 is a freestanding right to apply for the revocation. It's an extremely wide power. The High Court, in the Esso case, and is indicated that it

is a (indistinct) discretion. And there is no limitation on this exercise, in the absence of an appeal.

PN45

There are some suggestions in, I think, one Full Bench decision that the Commission might take into account an appeal when a party's substantive rights might have been affected by the decision, and the decision hasn't been appealed. But that doesn't apply in these circumstances. The minister was never a party, was not an intervenor. Was simply someone who the Commission asked for assistance in relation to particular issues. The minister is not – has no direct interest in any of the arbitration. And we say that the absence of an appeal, in the circumstance of this case, where there is only one matter that we seek to canvass, without challenging any of the other findings that the Commission makes, that the section 603 process is the most effective and efficient way for the parties to the arbitration to seek to finally resolve the dispute that is still outstanding.

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So for all those reasons we say that the minister should not be allowed to make submissions. There is nothing that she can contribute on this point. And we say, indeed, it's inappropriate for her to be engaged in the mechanics of resolving the dispute as opposed to the process which she was in last time, where she provided information to the Commission on the merits. And for all those reasons, we oppose the application by the minister.

PN47

THE COMMISSIONER: All right, thank you, Mr Borenstein. I think it might be appropriate to ask Mr Harding this question. There was something, a couple of matters that Mr Borenstein referred to relating to your client's interests. And I just want to understand where you might stand. Mr Borenstein said something to the effect that this application would hopefully be with the support of the other party, meaning FRV. And you're hoping to resolve it without – I'm sorry, hopefully with the support of the FRV, and you're not expecting it to be contentious between the UFU and the FRV. Do you have any view to express on those matters, Mr Harding?

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MR HARDING: Not at this stage, Commissioner. I mean, I hear what Mr Borenstein has said, and I'd need to take instructions as to whether or not my client regards those matters as contentious. Which is not to say that they would or would not. I don't know.

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THE COMMISSIONER: All right, okay, well, thank you.

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MR HARDING: I'm being agnostic, again.

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THE COMMISSIONER: All right. Ms Davern, is there anything you want to say in reply to Mr Borenstein?

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MS DAVERN: Yes, thank you, Commissioner. With the greatest respect to Mr Borenstein, the very matters that he has raised are the reasons that the minister seek to be heard on these matters. The whole entire basis for the application by the UFU is based on the submissions that were made both in writing and orally by the minister, at the hearing of the determination of this dispute.

PN53

The minister has a fundamental and primary interest in the resolution of this dispute, and particularly in respect of the fettering of powers of the FRV under the Act, for which she is a responsible minister.

PN54

In summary, the UFU contends that the basis for the decision that you made was the fettering issue. That's correct. That's patent from the decision. And that the fettering issue was not the subject of submissions, as I understand again, from Mr Borenstein today, from the minister or the UFU. And that the UFU was therefore somehow denied procedural fairness amounting to jurisdictional error.

PN55

The latter limb of the basis for that application is just simply not arguable on examination of the written and oral submissions by the minister. The opportunity afforded to the UFU, and the submissions in response made by the UFU, in relation to those submissions. If there is no contradictor in this issue of whether the fettering issue was correct, and Mr Harding is apparently unable to tell us whether there will be, it is, in my submission, fundamentally important that the minister be given the opportunity to put before the Commission, the arguments that she raised, and which the decision was made on.

PN56

The minister's written submissions and oral submissions raised directly the issue of the corporate board acting in a manner which may be inconsistent with section 25(b) of the FRV Act. It was done in three ways. Including whether a person was suitable for employment by the FRV, whether persons could be promoted, and an apparent authorisation by the board to determine whether a person should be registered.

PN57

Contrary to what is put to you, Commissioner, the – sorry, I withdraw that – the UFU had every opportunity to address these matters. And it's fundamentally important to the decision that was made, and to the integrity of the operation of the Act, that the minister be able to put submissions in respect of that decision, and for that decision to be maintained. It's fundamentally important to the minister for the operation of the Act to have its proper operation.

PN58

Equally the submissions made about the basis of this application are ones on which the appropriateness of this application are ones which the minister seeks to be heard. And that's fundamentally because the use of section 603 in this proceeding, at this point, in this way, appears only to be an attempt by the UFU to narrow any particular review to one particular issue, as opposed to an



appeal. And it was alluded to, but dismissed, that this is a matter which is highly relevant to the exercise of the Commission's discretion, as to whether an application under 603 is appropriate.

PN59

Whilst the High Court in *Esso* said that the power was a broad discretion, that discretion is not without limitation. And in the related decision to *Esso*, in the Full Court of the Federal Court, in the *Minister for Industrial Relations for the State of Victoria v Esso* [2019] FCAFC 26, the Full Court stated that there may be circumstances where the discretionary power under 603 should not be exercised because the applicant for the order is a person who is aggrieved by the decision, and should pursue an appeal under section 604.

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That approach was applied by Ross J in *Grabovsky v United Protestant Association of NSW*. And similar reasoning was recently applied by Deputy President Clancy in *The Applicant* [2021] FWC 5489.

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The minister seeks to be heard on both of these issues. Whether the appropriate mechanism for review of the decision is an application pursuant to section 603, where quite clearly the UFU is the applicant in this section 603 application, is a party aggrieved, and should, in the minister's submission, have brought an appeal under section 604. Which would have a much more broad remit, than the narrowing of the issues in this way.

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For those reasons the minister seeks to be heard both orally and in writing, in respect of both the appropriateness of the section 603 application, and if the Commission determines to exercise its discretion under section 603, the subject matter of any such application, the minister contends that the appropriate mechanism here is for the UFU to appeal the decision under section 604. And I'm instructed that the minister would raise no objection to such an appeal being out of time if the UFU properly brought such an appeal. That's the minister's submissions. Thank you, Commissioner.

PN63

MR BORENSTEIN: Commissioner, can I just correct something, please?

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THE COMMISSIONER: Certainly.

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MR BORENSTEIN: I think Ms Davern has misunderstood - and it's probably my fault - has misunderstood what we say about the inability to respond, or the lack of opportunity to respond to the critical finding which you made, which led to your decision. Ms Davern says that the Commissioner made oral and written submissions about the issue of fettering. We don't dispute that. You've recorded the submissions in your decision, and you've expressed your view about those submissions. And we don't seek to disturb that.

PN66

What we say, and the grounds for this application, is that the particular basis upon which you came to the view that fettering was an issue, was not the particular basis which was addressed by any of the parties – the minister, FRV or ourselves – in the hearing. We all addressed the issue which the minister raised which was that under the service contract, the board, in exercising its powers as set out in the contract, would fetter the functioning of FRV under its legislation. We addressed that, and the minister addressed that, and you addressed that in your decision. And you rejected it. And we don't seek to disturb that.

PN67

But you went on to say that on your assessment, it was open to the board to go beyond what is prescribed in the contract, and potentially apply standards which would be inconsistent with the standards in the enterprise agreement. And in that way would fetter. Now, that argument was never put. And it's that argument, and only that argument that we seek an opportunity of dealing with.

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And insofar as Ms Davern says, 'Well, we want to put our submissions to you, the submissions we made in writing, and orally', what I said a few moments ago was that all of that material is before you, and would be before you in dealing with that application. Nothing is advanced by somebody coming along and reading them to you again.

PN69

What we think is inappropriate is an attempt by the minister to try and relitigate those issues in circumstances where nobody's asking for that. We're not asking to relitigate the issues which the minister raised orally or in writing. You've ruled on that. We accept your ruling. We say that there is a new issue, which you have raised, and we don't say that in any critical way, which you have raised in your decision, which was beyond what was argued by the parties. That's a simple point. If you come to a view on our application, there is no further point, well then, that's the end of our application. So that's the first correction I wish to make.

PN70

The second point I want to make is important, and it came from the final submissions which Ms Davern made. She is seeking to put the minister in the role of an actual party to the arbitration. Which is a consent process between us and FRV. She wants to make submissions and urge the Commission to tell the parties the best way of resolving the dispute in the context of the arbitration which is before you.

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Now, as two parties who got a consensual process before the Commission, we can come to you and we can say to you: As the parties to this process, we want you to take a left turn, or a right turn, or this way, or that way; and because it's a consent process it's the parties that should be informing you or applying to you for the way to go. Now, it's inappropriate for third parties, not part of the actual arbitration itself, to come along and say, 'Well, we don't want those parties to do what they want to do. We want you to get them to do what we want to do'. And we say that

that just demonstrates the inappropriateness of the minister making these submissions.

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As Ms Davern conceded, the power under 603 is a broad discretion. The discussions by the precedent which Ms Davern referred to have been discussed in later full-bench decisions which have indicated that they should not be read as setting an outer limit on the discretion which the Commission has. We will provide you with those cases when we make out submissions, as is our duty, and we will address them for you and Mr Harding will address them as well, and you can make your decision based on those decisions. It is not necessary for the Minister to come along and inset herself as a de facto party to tell the parties how they should run their dispute and their arbitration. And we say that you should reject the application from the Minister and allow the parties to put their respective positions to you on the order that you've made on the order that you've made on their arbitration to resolve their dispute. This is not a question about the FRV Act, this is simply a question about whether we should have an opportunity of dealing with the one point that you have decided in your decision.

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THE COMMISSIONER: Mr Borenstein, the provisions of section 603 enable the commission to vary or revoke a decision. The application your clients made is that the – it's for an order that the decision be revoked, not varied, have I got that correct?

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MR BORENSTEIN: Yes.

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THE COMMISSIONER: So you don't seek to vary it?

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MR BORENSTEIN: No, we seek to have it revoked because the decision is the dismissal.

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THE COMMISSIONER: Right, so you don't seek to simply have excised from the decisions the paragraphs about which you complain, which I think start around about 73? I'll double check, 73 to 78, that would be in incorrect reading?

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MR BORENSTEIN: We have framed this because the order that you made in the decision was to dismiss the application. It's that order which we asked to be revoked.

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THE COMMISSIONER: Sure, I understand that, but you're not saying - - -

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MR BORENSTEIN: And I was going – I was going to say that the effect of that revocation – sorry, just to explain, the effect of that revocation would be that the

resolution of the arbitration remained open. And then we would ask for an appropriate opportunity to address the particular issue which you raised, I think it's in paragraph 78 or so.

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THE COMMISSIONER: Right.

PN82

MR BORENSTEIN: Of the decision, and nothing more. It may be that on hearing the submissions the Commission would add to that paragraph or whatever to take account of what its heard, and then come to a new conclusion.

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THE COMMISSIONER: So revoke in the sense of tear up?

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MR BORENSTEIN: The order.

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THE COMMISSIONER: The decision. You say revoke the decision in the sense of tear it up?

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MR BORENSTEIN: Yes. Well, we don't – well, I'm sorry.

PN87

THE COMMISSIONER: Well, no, it's important. Well, I want to be clear as well.

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MR BORENSTEIN: Yes.

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THE COMMISSIONER: Mr Borenstein in respect of what you seek you seek the entirety of the decision to be gone?

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MR BROMBERG: No, the order.

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MR BORENSTEIN: No, the order.

PN92

THE COMMISSIONER: All right. Okay, well I'm unclear to be quite honest.

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MR BORENSTEIN: Well, sorry.

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THE COMMISSIONER: Because the application you made is an order that the decision of Commissioner Wilson on 2 December 2022 to dismiss the application

in matter number 2022/220143 be revoked pursuant to section 603 of the Fair Work Act.

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MR BORENSTEIN: Well, the intent – and taking on board what you've said – the intent of the order that we had sought in our application, it is really directed to the conclusion at paragraph 102 where you've said,

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*'Since the Minister's statutory objection is upheld the application before the Commission is dismissed.'*

PN97

And taking on board what you've said, that is the focus of what we were seeking to have removed. Now, we've clearly expressed ourselves badly in the sense that by referring to the decision it's ambiguous in the way in which you've just identified, Commissioner, and we can see that. But if I can clarify that is not the intent, we don't seek to revoke the entirety of the decision. We don't seek to tear it up. It's really an intent to revoke the conclusion which you've expressed at 101 and 102 focused on the fettering issue. I'm sorry that we've created that ambiguity and we can - - -

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THE COMMISSIONER: Well, thank you for clarifying that, and that's the reason why I ask Mr Harding the question I did, which is you were putting the submission that it's hopefully with the support of the other parties – the other party, rather.

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MR BORENSTEIN: Yes.

PN100

THE COMMISSIONER: Not expecting to be contentious. Now the way I understood that to be is that there may well be some home of the FRV saying, 'As a matter of fact we think you were wrong in respect of paragraph 73 to 79, and they should be removed.' That's why I ask the question. But now I understand. All right, does anyone else wish to say anything in respect of whether I hear the Minister in these further proceedings? No, all right. Very well in that case I am persuaded that Ms Davern and her client should be granted the right to attend and provide submissions on behalf of the Minister. I do that on the basis that I consider that there is, certainly in my view, some questions about the outer limits of section 603 and my capacity to grant a decision in favour of the applicant as might be sought in these proceedings. And indeed I think the submissions that may be put by the minister will assist me in granting – sorry, not granting – in considering the application which is now made by the UFU. I do see some uncertainty both as to what the UFU seeks in these further proceedings, as well as the basis upon which the Commission can proceed. And I think that there will be some assistance granted to me through the attendance of the Minister. So on that basis, Mr Borenstein, if I can come to the scheduling of the matter and your instructor provided over the weekend I think some proposed orders. Now is there anything further you wanted to say on that proposal?

PN101

MR BORENSTEIN: Only in relation to the ultimate date. We don't have any particular date in mind, but we've nominated a not before date in paragraph 5 because that allows for the completion of the various steps in the process. Other than that the only thing that I'd perhaps flag is that, in view of that discussion this morning, we would seek leave to file with our materials in submission any amendment to our application to seek to make it clearer having regard to the comments that you've made about it.

PN102

THE COMMISSIONER: All right, thank you. Mr Borenstein in respect of the hearing date, what I would propose is Thursday 30 March, would that be suitable to you and your client?

PN103

MR BORENSTEIN: Just checking. I think that would be, certainly we're available on that date.

PN104

THE COMMISSIONER: All right, do any of the other counsel have anything to say about that hearing date?

PN105

MR HARDING: 30 March is fine for me. My junior I need to – but, yes, fine we should be.

PN106

THE COMMISSIONER: All right, and Ms Davern?

PN107

MS DAVERN: Equally fine for me, Commissioner, but I anticipate I'll be led by Mr O'Grady in the hearing and I don't have his availability.

PN108

THE COMMISSIONER: All right. Well, look, in respect of all concerns I'll list it for the Thursday 30 March, but if that becomes problematic from anyone's perspective if you let me know as soon as you can. Mr Borenstein the proposal that was put forward is broadly acceptable, but what I was going to be suggesting is a sequencing similar to this; that the applicant's filing – I would propose be in three weeks' time on Monday 13 February, and I have intended to seek from you an outline of submission. I doubt there'd be any witness statements would there?

PN109

MR BORENSTEIN: There'll be one.

PN110

THE COMMISSIONER: Be one, and then also a draft order and, as you indicate, any amended application also by that date. So that was Monday 13 February, and then the FRV and the minister any response to those matters by Monday 6 March with the UFU's response if required to the respondent and the Minister by Monday 13 March. So just to repeat those again; the applicant's filing 13 February, the

respondent and the Minister Monday 6 March, and then the UFU response on Monday 13 March. So is that broadly acceptable to you?

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MR BORENSTEIN: Yes, thank you.

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THE COMMISSIONER: All right, okay, thank you.

PN113

MS DAVERN: Your Honour, if I may – and I believe it's only to assist my learned friends from the UFU – I believe the Monday 13 March may be the public holiday.

PN114

MR HARDING: Yes, it is.

PN115

THE COMMISSIONER: It is too, how could I forget? Should we make that Tuesday the 14th?

PN116

MR BORENSTEIN: Yes, thank you.

PN117

THE COMMISSIONER: All right, I think I've spent the past two weeks listing things on that day. I should've known by now.

PN118

MS DAVERN: Perhaps everyone isn't as keen on public holidays as I am, Commissioner.

PN119

THE COMMISSIONER: All right, well look what I'll do is circulate to the parties some written directions later today. Now if there's any aspect of those directions which cause you or your instructors any concern then obviously let me know at the earlier opportunity. Now is there anything further from any party any person? No, all right. Okay, well, thank you in that case we'll adjourn these proceedings. Thank you.

PN120

MS DAVERN: As the Commission pleases.

**ADJOURNED INDEFINITELY**

**[10.42 AM]**