



TRANSCRIPT OF PROCEEDINGS
Fair Work Act 2009

COMMISSIONER WILSON

C2022/5683

s.739 - Application to deal with a dispute

**United Firefighters' Union of Australia
and
Fire Rescue Victoria
(C2022/5683)**

Melbourne

10.05 AM, TUESDAY, 11 APRIL 2023

Continued from 09/03/23

PN41

THE COMMISSIONER: Good morning, parties. If I can start by just noting the change in appearances for the applicant. Who will be speaking for the applicant, this applicant this morning?

PN42

MS CAMPANARO: It will be Mr Marshall.

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THE COMMISSIONER: In that case, I'll just note Mr Marshall will be appearing for the UFU.

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Now, on the last occasion, parties, we agreed that we would stand the matter over for a month, in order to see what had occurred over that time, particularly in relation to bargaining.

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Now, Mr Marshall, do you wish to report anything about the progress in that regard?

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MR MARSHALL: Yes, Commissioner. (Indistinct words).

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THE COMMISSIONER: All right, thank you.

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MR MARSHALL: (Indistinct) the Commission would be aware, this matter was first (indistinct) in August 2022. It was set for hearing in February and at that time, if I could Commissioner, the Minister sought, I think it was on 24 February, to intervene in the matter.

PN49

On 27 February (indistinct) was the submissions in relation to bargaining and, essentially, it was said that this matter (indistinct), matter should be more properly dealt with in the environment in which (indistinct) section 240 application (indistinct). In that context (indistinct).

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THE COMMISSIONER: Mr Marshall, could you just pause for one minute, please?

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MR MARSHALL: Sorry?

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THE COMMISSIONER: Just bear with me, for one minute.

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Mr Marshall, we've just re-angled the microphone. I gather there's some problem with hearing you, for the purposes of the transcript, but perhaps if you can continue now, please?

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MR MARSHALL: Would you like me to repeat what I've said, Commissioner?

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THE COMMISSIONER: No, I don't think that's necessary.

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MR MARSHALL: Okay. 27 February Mr O'Grady, by way of written submissions, suggested that the matter was before the Commission in relation to this allowance application by the union would be better dealt with, in my view, by a notice of submission on behalf of the Minister.

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As such, the union has been involved in bargaining before yourself with the 240 application, this matter hasn't been pressed by the union to date.

PN58

On 6 April the union wrote to the treasurer, Mr Pallas, against the background whereas the FRV and, as I understand it, the Minister were putting that there was a new wages policy imminent and these matters before the Commission under consideration should be (indistinct). We were unable to progress that matter, for reasons that the Commission would be aware.

PN59

The new wages policy was announced by the treasurer on Monday last week, sorry I don't have the date handy, (indistinct) was the subsequent press release, released on the Tuesday. I wrote to the treasurer on 6 April asking for a copy of the new wages policy, which essentially talked about the matters that they were actually progressing or (indistinct) to this matter, would be dealt with under clause 3 of the new wages policy.

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We've also made inquiries with Trades Hall Council for a copy of that written policy and, to date, have not been able to see it in writing, other than the press release.

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So, Commissioner, even though we welcome the announcement of the treasurer and the government that these matters can be dealt with under bargaining, under the new policy, we're at a bit of a loss because we're not able to ascertain what the new policy is because it hasn't been reduced to writing. So we're very reluctant (indistinct) to again put this matter off given the fact that it was first lodged in August last year. It was essentially adjourned so we could undergo some discussions to meet the request of the Minister, in the context of bargaining, and when we go to bargaining we can progress the matter and I'm not sure if the matter (indistinct) the Commission would be aware, for those reasons.

PN62

Having said that, it appears, from the press release of the treasurer, as well as the letter I've sent to the treasurer, which Ms Campanaro can hand up a copy, that these matters then were dealt with under bargaining, however we have no (indistinct) of the press release. We don't have any details as to what that means. Given this matter has first been submitted by the union in August 2022, and essentially adjourned so as we could (indistinct), a text by Mr (indistinct) after the Minister requested it, we're reluctant to actually adjourn this matter further, because we see no policy, we have no details of that policy and we're not quite sure if we're any more advanced than what we were, other than the press release from the treasurer.

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On that basis we seek some dates, if you like, Commissioner, to actually have this matter listed for termination.

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THE COMMISSIONER: Now, Mr Marshall, when you say you'll make a request for dates for hearing, do you have a view as to how many you seek, or when you'd be ready to have the matter heard?

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MR MARSHALL: I'm not quite sure how many it was originally listed for, Commissioner. I'm not sure if the Fair Work Commission can assist me, I think it was two to three days, wasn't it?

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THE ASSOCIATE: It was the full five, from memory, Commissioner.

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THE COMMISSIONER: That was my memory too. All right. Is that all you wish to say at this time, Mr Marshall?

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MR MARSHALL: Yes, Commissioner, other than (indistinct) dearly like a copy of the written wages policy so we can understand exactly where we're at, because we have no idea, other than a press release.

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THE COMMISSIONER: All right, thank you. Now, Mr Marshall, for your benefit, I know it's very hard to see the people at the Bar table, but we have Mr Harding, for the FRV, and we have Mr O'Grady for the Minister.

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So, Mr Harding, is there anything you wish to say?

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MR HARDING: Not at this stage, Commissioner.

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THE COMMISSIONER: All right, thank you. Mr O'Grady?

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MR O'GRADY: Yes, thank you, Commissioner.

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The Minister's position is, as indicated last time this matter was before you, we have no objection, or she has no objection to the jurisdictional issue being relisted by the UFU and we understand there is also at least a proposed application, by the UFU, seeking a variation of the current agreement, under section 217. It would seem appropriate that those two matters be listed together, given the overlap in the issues between them and I don't have instructions to oppose dates being fixed, in respect of the determination of those matters. It would seem, from my part, that it would be sensible to try and dispose of those jurisdictional/variation issues, prior to listing and hearing the substantive matters. But, of course, that's a matter for the Commission and the Commission's convenience.

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MR MARSHALL: Commissioner, I - - -

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THE COMMISSIONER: Yes, Mr Marshall?

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MR MARSHALL: Sorry, Commissioner, apologies to Mr O'Grady. My understanding is (indistinct) jurisdictional matter and the allowance matter is to be listed for the same time, not as a separate hearings, as I understood. I might be wrong on that.

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THE COMMISSIONER: That was my recollection as well and I think, Mr O'Grady, that's what you were proposing as well?

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MR O'GRADY: Exactly. That's exactly what I was proposing. So it would seem, at least from my part, Commissioner, that what needs to be done, subject, of course, to how you want to handle it, is there to be some dates set and then some programming for the UFU to file its substantive response, in respect of the jurisdictional objection raised by the minister and the substantive submissions it puts in support of the variation application and then, therefore, to be an opportunity for that to be responded to by my client and the FRV and, finally, for the UFU to have the opportunity to put in material in reply and then a hearing. But they're just suggestions, Commissioner, I'm very much in your hands.

PN80

THE COMMISSIONER: All right, thank you, Mr O'Grady. Mr Marshall, Mr Harding and Mr O'Grady, what I think I might do now is to go off the record and deal with some of those matters of programming, and then we'll return to the record to summarise how the matter will be disposed of. Is that convenient to all concerned?

PN81

MR MARSHALL: Yes.

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THE COMMISSIONER: In that case we'll adjourn and let me know when the recording has ended.

ADJOURNED INDEFINITELY

[10.15 AM]