



TRANSCRIPT OF PROCEEDINGS
Fair Work Act 2009

COMMISSIONER JOHNS

C2023/7331

**s.120 - Application to vary redundancy pay for other employment or
incapacity to pay**

**Bartercard Digital Pty. Ltd.
and
Mr Dominic Blewitt
(C2023/7331)**

Melbourne

2.07 PM, MONDAY, 18 DECEMBER 2023

PN1

THE COMMISSIONER: Thank you, for the applicant company, Bartercard Pty Limited, Mr Hebbink. Can you hear and see me?

PN2

MR P HEBBINK: Yes, I can, Commissioner Johns.

PN3

THE COMMISSIONER: Thank you. And then we have the respondents in the matter. Ms Rice, can you hear and see me?

PN4

MS N RICE: Yes, I can.

PN5

THE COMMISSIONER: Thank you. And Mr Blewitt.

PN6

MR D BLEWITT: Yes, I can, commissioner.

PN7

THE COMMISSIONER: All right. These are applications to reduce the - what would otherwise be the redundancy entitlements for each of the respondents in this matter. I've listed them together because the essential substratum of facts leading to the offers of employment are by the same employer, but we will deal with each of the applications separately starting with Mr Blewitt.

PN8

But first of all what we'll do is in terms of - who's going to give evidence on behalf of the respondent, Mr Hebbink, I presume it's you.

PN9

MR HEBBINK: That is correct.

PN10

THE COMMISSIONER: Yes. All right. So I'm going to administer the affirmation to you in a moment but can I first start - Mr Blewitt, is the essential difference between what contract you were on and the new contract that you've been offered the incentive payment?

PN11

MR HEBBINK: Yes, the incentive payment. The role is different. They've - yes. Incentive payment, the role is different. I previously didn't have a formal contract or job description as well (indistinct) the BTX.

PN12

THE COMMISSIONER: Well, what I've got is you have a contract which was attachment B which is a contract from BTX dated 4 April 2022.

PN13

MR HEBBINK: That's correct.

PN14

THE COMMISSIONER: And then subsequently you've had documents which say, 'Here's your contract. Everything else remains unchanged.'

PN15

MR HEBBINK: New employer, yes.

PN16

THE COMMISSIONER: New employer. Isn't that - so everything remains unchanged.

PN17

MR HEBBINK: Yes. That's - well, yes, but the BTX was dramatically different company to Bartercard. Difference all - - -

PN18

THE COMMISSIONER: Well, I'm not concerned about the - well, it seems to me, correct me if I'm wrong, I have to compare annexure B, the BTX contract with annexure G which is the one that was offered to you.

PN19

MR HEBBINK: Correct.

PN20

THE COMMISSIONER: Yes. And the essential difference is around incentive, isn't it?

PN21

MR HEBBINK: Yes.

PN22

THE COMMISSIONER: All right. Well, because I can see in the annexure B and it's paragraph 36 of the digital tribunal book, there's a whole commission structure there, a commission of 10 per cent quoin, is that what I call it?

PN23

MR HEBBINK: A quoin, yes. Under the BTX. Yes.

PN24

THE COMMISSIONER: A quoin. All right. But immediately prior to the cessation of your employment, what was the commission structure?

PN25

MR HEBBINK: Prior - you mean prior to 24 November just gone?

PN26

THE COMMISSIONER: Prior to you ceasing employment.

PN27

MR HEBBINK: My commission structure was 5 per cent of everything I collected and I would nominate what I'd collected and send it off each month.

PN28

THE COMMISSIONER: And so is that document page 137 in the exhibit book?

PN29

MR HEBBINK: Page 37?

PN30

THE COMMISSIONER: Page 137.

PN31

MR HEBBINK: That's correct.

PN32

THE COMMISSIONER: Yes. And what was the proposed incentive model with the new employer?

PN33

MR HEBBINK: The new employer was - it was very vague. I only got a verbal description of it even though I asked formally on a few occasions the description, the vague description that I got was a percentage above my wage on a quarterly - based over a quarter. So - and I had a particular group of clients that I had to - was going to be assigned to me and I had to get a percentage above my income and I was going to get - a percentage of that was going to be my bonus. So very vague. Yes, no understanding of it whatsoever.

PN34

THE COMMISSIONER: All right. Thank you.

PN35

And then, Ms Rice, coming to you, is the essential difference this issue about working from home?

PN36

MS RICE: Yes. Yes, I have no - absolutely, like, no space to work from home.

PN37

THE COMMISSIONER: All right. Well, you're going to have to explain all that to me because, you know, during these previous COVID years or whatever, I've worked from a kitchen table. I worked from a kitchen table for two years.

PN38

MS RICE: Well, yes, I could - like, essentially I could work from a kitchen table but that's not a suitable office space. Through COVID I've - since COVID and now, I've recently had a baby so there's - their room that I was working out of with COVID is now my baby's room. So I don't have that room to set up a desk or an office space.

PN39

You know, you can't work at a kitchen table, like, even trying to prepare all this document, I'm doing it at the kitchen table and I've just got paperwork everywhere and then trying to have dinner or trying to have lunch and then trying to get my little boy sorted. It's too much to work from a kitchen space or from a couch.

PN40

You know, to do half a day's work or if you've been out on the road, you come home to do notes, that's fine to do that but to do it on a day-to-day basis it's impossible. I live in a very small house, you know, I live in a unit. So yes, like I said, my room that I had through COVID is now a child's bedroom.

PN41

THE COMMISSIONER: All right. Well, you can ask Mr Hebbink about all of that when we come to cross-examination of him.

PN42

So, Mr Hebbink, I'm going to administer the affirmation to you.

<PAUL HEBBINK, AFFIRMED [2.13 PM]

EXAMINATION-IN-CHIEF BY THE COMMISSIONER [2.14 PM]

PAUL HEBBINK

XN THE COMMISSIONER

PN43

THE COMMISSIONER: Well, can I start with this issue about the bonus? It does deeply trouble me that there was a definite structure prior to the cessation of employment and prior to the cessation of employment there was no definite proposal put to Mr Blewitt about what his incentive would be?---So we were hoping to have Dominic's input into this incentive and we were discussing the specifics of the client base that - the care account client base that he would be working on to understand the parameters of it. The specifics of the incentive was essentially it was quarterly. It was cover your base salary costs and then receive a percentage of the revenue above covering your base salary and the - - -

PN44

What percentage?---We were talking in the realm of 20 to 30 per cent above covering your base salary.

PN45

But you accept, don't you, that at the time he had to make a decision, he didn't have all of the information about which he couldn't make a decision, isn't that right?---Yes, I do accept that.

PN46

So how can you possibly come before this Commission and say the positions between the previous one and the one that was offered are the same?---The nature of the role was - - -

PN47

No, that's - nature of the role is one thing, the remuneration is one thing. The incentive program seems to be a crucial part of his package and there's just no information about it, isn't that right?---He did have some information about it because we discussed the - in contextual form. We were wanting to understand the parameters of the client base that he would be looking after and Dominic had previously been running these clients and so we were in discussions about that.

PN48

At the point in time that he was required by your company to make a decision, he did not have all of the necessary information about the incentive program, did he?---Correct.

PN49

And yet you're still pressing this application, are you?---Well, we are seeking the guidance of the Commission to make this decision.

PN50

All right. Mr Blewitt, do you have any questions for Mr Hebbink?

CROSS-EXAMINATION BY MR BLEWITT

[2.16 PM]

PN51

MR BLEWITT: The 20 or 30 per cent was never ever mentioned at all. I did ask at the time when I - - -

PN52

THE COMMISSIONER: No, hang on. Sorry, Mr Blewitt, that sounds like a statement and not a question.

PN53

MR BLEWITT: I'm sorry. I'm sorry.

*** PAUL HEBBINK

XXN MR BLEWITT

PN54

THE COMMISSIONER: You need to ask questions of Mr Hebbink.

PN55

MR BLEWITT: No, I have no other question.

PN56

THE COMMISSIONER: Well, isn't your question when was I told about the 20 per cent?

PN57

MR BLEWITT: Well, thank you.

PN58

When was I told about the 20 or 30 per cent?--I mean, through these discussions and Dominic, I don't recall precisely whether - you know, how much detail we went into because we were - we had a number of meetings. We - yes, we did discuss - - -

PN59

THE COMMISSIONER: Mr Hebbink, is your evidence that you have no recollection of ever telling Mr Blewitt about 20 or 30 per cent?---I cannot recall whether we specifically used the words, '20 or 30 per cent,' no.

PN60

Any other questions, Mr Blewitt?

PN61

MR BLEWITT: No, thank you. No.

PN62

THE COMMISSIONER: Thank you.

PN63

All right. Well, Ms Rice, it's now your opportunity to ask any questions that you have for Mr Hebbink.

PN64

MS RICE: I don't think I really, like, yes, I don't think I really have any questions.

PN65

THE COMMISSIONER: Well, there seems to be some conflict in the evidence about whether or not you were offered a working from home allowance or something, is that right?

PN66

MS RICE: Well, yes. I was never told an amount of a working from home allowance. We were told that there would be but we were never given a figure and again, my - - -

*** PAUL HEBBINK

XXN MR BLEWITT

PN67

THE COMMISSIONER: Well, why don't you put that to Mr Hebbink?

PN68

MS RICE: What is the working from home allowance to be?---So we never got to the point with you of finalising the working from home allowance because we were in discussions with you and then there was a - you had a significant personal challenge in your life at which point - I mean, I thought things were going along - discussions were going along quite well with you. You asked about a salary increase. We agreed to that and then the next thing we knew, you had a significant personal challenge. You then - we never got to the point of being able to formalise the working from home thing because you then dropped us an email and said you'll be taking redundancy which I feel was linked to the significant personal challenge you were undergoing.

PN69

No. No, it wasn't, to be honest. That had nothing - it really had nothing to do with my decision. My decision was a threatening email that we got sent to us which really was like I cannot work under these circumstances to be threatened if I don't do a certain amount of work in a day to be told you'll be put down as a nonrelated workday if you don't do A, B and C. That to me did - left a bad taste in my mouth in what was going on in my personal life (indistinct).

PN70

THE COMMISSIONER: Where do I find this threatening email in your digital tribunal book, Ms Rice?

PN71

MS RICE: Honestly, I - it was just forwarded to me. As I said in my emails, I don't have access to my Bartercard emails to reference this. I had left the company. I wasn't able to log onto find and to attach everything but - and I was never asked why I took the redundancy. No one ever asked me the question. I just sent the email. I had a phone call from Tim saying, 'Yes. All right. You can finish on the 17th or the 25th,' and I said, 'Look, I'd rather finish on the 25th so that I can' - - -

PN72

THE COMMISSIONER: Sorry, Ms Rice, we can probably come to this, it's just that you're meant to be asking questions of Mr Hebbink.

PN73

MS RICE: Well, yes. I'm just trying to answer - like, you asked me the question saying that he thought my decision was from my personal leave and it had nothing to do with my personal leave, it was to do with this email that we got about not adhering to work.

PN74

THE COMMISSIONER: Mr Hebbink, are you aware of this email?---I am aware of it. It was not sent by myself but yes, I am aware of what Naomi's talking about.

*** PAUL HEBBINK

XXN MR BLEWITT

PN75

And is it in the digital tribunal book?---I don't believe it's in Naomi's part, I believe it is Dominic's.

PN76

MR BLEWITT: Yes. Yes, it is.

PN77

THE COMMISSIONER: Mr Blewitt says it is.

PN78

MR BLEWITT: It's on page 116 of mine and that was an email sent on Wednesday, 8 November quoting:

PN79

To be clear expectations involved today. If there is no note in the system or following the expectations we are making clear today, it will be considered you are on leave without pay.

PN80

And that was sent to - yes, Paul, you were cc'd in that email as well and it was sent to all staff?---Yes, I'm (indistinct).

PN81

THE COMMISSIONER: And is it just that one (indistinct)?---It was thicker, yes. It's sent to every staff member of the country.

PN82

But on 116 is that the full extent of the email?---That's just a portion of the email. There is - that's the, 'Hi all,' that's the first paragraph essentially so it goes down (indistinct) the first two or three paragraphs.

PN83

All right. Well, Mr Hebbink, I'm going to require you to produce to the Commission the full email dated 8 November 2023 and we will include that in the digital tribunal book for Ms Rice?---Can do.

PN84

All right. And it will be exhibit 7 in the proceedings. I should just say to the parties that in relation to the digital tribunal book in respect of each matter, every document will be marked as an exhibit according to the number in the digital tribunal book. So for example, the form F45A is exhibit 1.

PN85

The statutory declaration of the applicant is exhibit 3 and so forth and so on. We'll now include additionally in the Rice digital tribunal book as exhibit 7 that email that I've just referred to.

PN86

Ms Rice, do you have any other further questions for Mr Hebbink?

*** PAUL HEBBINK

XXN MR BLEWITT

PN87

MS RICE: No.

PN88

THE COMMISSIONER: All right. Thank you.

PN89

Mr Hebbink, if you were legally represented now, you would have - your representative would have an opportunity to re-examine you in relation to matters which have been raised in cross-examination or by me. Is there anything further you'd like to say about either of these two matters?

PN90

MR HEBBINK: No, I think we put our - we put everything into the booklet.

PN91

THE COMMISSIONER: All right. Thank you. And that concludes the evidence on behalf of the company.

<THE WITNESS WITHDREW

[2.24 PM]

PN92

THE COMMISSIONER: We'll now come to you, Mr Blewitt.

<DOMINIC BLEWITT, AFFIRMED

[2.24 PM]

CROSS-EXAMINATION BY MR HEBBINK

[2.24 PM]

PN93

THE COMMISSIONER: Mr Hebbink, do you have any cross-examination for Mr Blewitt?

PN94

MR HEBBINK: Yes. So Dominic, in what way do you feel that the role was substantially different to the role that you were currently undertaking?---Well, the major point of difference was the bonus structure. The other point of difference was that we are a fixed client base rather than a floating client base and very much the unknown was the - and the client visits, like, you guys stated that you guys wanted me to work exclusively with - you know, from the office, not doing face-to-face visits which is where I spent my last sort of, you know, 27 years with this organisation and why I was so successful in that. So dramatically different.

PN95

THE COMMISSIONER: Sorry, and what was the second matter, Mr Blewitt?---The bonus structure was the first matter. The second matter was just the style in which I conducted my work (indistinct).

*** DOMINIC BLEWITT

XXN MR HEBBINK

PN96

So that was the third one about the (indistinct)?---A fixed client base. So I had a client base where potentially I would just go to where the potential work was and stimulate that business, whereas under the new model I was to be given a client base to be looked - an official client base to look after. That client base which, whether I had input in or not, I was yet to see how that was going to look and look - so I felt very - it was very restrictive and I'd had no idea how else we were going to achieve the unknown bonus out of that structure that I was to be given.

PN97

Right?---So I felt like I was setup to fail.

PN98

Can you just help me - what do you do? What is this business?---Well, it's - Bartercard is a trade exchange. So there is clients that join the trade exchange and the trading people within that exchange stimulate the transactions so that it's all - it's business to business exchange.

PN99

What do you do?---Stimulate the transactions. Visit people, build relationships, look for excess stock, help people spend their dollars, help people earn dollars, help people spend their dollars.

PN100

Right. Can you give me a bit more granularity? I don't really understand what you do?---All right. Well, everybody in the Bartercard system is a merchant so the merchants have got - so we deal with excess stock, idle inventory and

downtime so I go out there and understand these businesses, get to figure out what their slow-moving stock is or their down time.

PN101

All right. Say I make jumpers and I've got all these jumpers because it's now summer and no one's buying jumpers in summer, you come and see me. What do you do with - what do you do to help me?---I take your excess jumpers that you didn't move through the winter and I find a market for those.

PN102

All right. And do I pay you for that service or something?---That's it. It's transactional so as you earn, you pay and as you spend you pay, so I'm helping people make sales and I'm helping people spend at the same time.

PN103

All right. Thank you?---Pleasure.

PN104

Mr Hebbink, do you have any more questions for Mr Blewitt?

PN105

MR HEBBINK: No, I don't.

*** DOMINIC BLEWITT

XXN MR HEBBINK

PN106

THE COMMISSIONER: All right. Mr Blewitt, if you were being represented now, your representative would have an opportunity to re-examine you in respect of matters which you've been asked about by Mr Hebbink and me. Is there anything further you think I need to know in terms of your evidence?---No, I don't. I think it's all there.

PN107

All right. Thank you. Then you're excused as a witness?---Thank you.

<THE WITNESS WITHDREW

[2.28 PM]

PN108

THE COMMISSIONER: Ms Rice, do you solemnly and sincerely declare and affirm that the evidence you're about to give in this proceeding before the Fair Work Commission will be the truth, the whole truth and nothing but the truth?

PN109

MS RICE: Yes.

<NAOMI RICE, AFFIRMED

[2.28 PM]

CROSS-EXAMINATION BY MR HEBBINK

[2.28 PM]

PN110

THE COMMISSIONER: All right. Mr Hebbink, do you have any questions for Mr Rice?

PN111

MR HEBBINK: Sure do.

PN112

To what extent did your personal circumstances impact on you making the decision to take redundancy?---A lot, mentally, even now - - -

PN113

THE COMMISSIONER: Ms Rice, do you need to take a moment?---For me just that email that cut me up about if you don't do this and you don't do that, given what I'm going through at the moment, I see that as a massive - I don't want to work for a company like that currently in my (indistinct).

PN114

Ms Rice, what's wrong with an employer saying, 'These are our performance expectations.' Every employer does that?---(Indistinct) your performance expectations, absolutely, I get that but to say that if you don't do it we'll put you down as a paid day off, that's threatening. That's not, you know, that's not okay to treat staff like that.

*** NAOMI RICE

XXN MR HEBBINK

PN115

Well, Mr Hebbink, I don't know whether it's lawful?---Exactly. So when you're already at the bottom - when you're already going through personal stuff and then you see that, it's not all right and my current boss - well, Bruce Manson, my previous boss, was very understanding of things and you know, if you had a problem which I'm sure I probably could have got to with Paul but we never really had that. To have a talk and, you know, Bruce would help work things out and to have a new boss or employee that, you know, I felt I couldn't talk to like that even as Paul said before, you know, you gave me a pay rise. That was a fight to get a pay rise. That was an absolute fight. I got denied twice and then got a quick phone call saying, 'We've approved for this,' which I was appreciative of but still to be threatened just really - it really pulled on me and I just thought, 'No way. No. If I don't get out now, no.' You don't treat staff like that. That was my main decision and then when I got back to work I was ready to work and then to hear that these written warnings to people on their - working their notice period to get a written warning I'm like, 'Are you serious.' Just thought, 'No. I don't want to be a part of it.'

PN116

Mr Hebbink, if an employee turns up for work but doesn't achieve some performance expectations during the day, how does an employer get to unilaterally decide to treat someone as being on leave without pay?

PN117

MR HEBBINK: It wasn't about not achieving performance expectations. It was employees who were working out a notice period who were then taking extended long lunches, not turning up at all, not being accountable for their time.

PN118

THE COMMISSIONER: How does an employer lawfully get to treat an employee as being on leave without pay?

PN119

MR HEBBINK: It's a good question. I don't know that we did actually do that with anyone. It would be a process and a discussion with them.

PN120

THE COMMISSIONER: Who is Michael Johnson?

PN121

MR HEBBINK: He is the director of Bartercard.

PN122

THE COMMISSIONER: I've got to get some advice about making threats about what looks like unlawful conduct.

PN123

MR HEBBINK: Noted.

PN124

THE COMMISSIONER: All right. Have you got more questions for Ms Rice?

PN125

MR HEBBINK: No further questions.

*** NAOMI RICE

XXN MR HEBBINK

PN126

THE COMMISSIONER: Thank you.

PN127

Ms Rice, if you were represented now, your representative would have an opportunity to ask you questions in reply arising out of matters which Mr Hebbink just asked you questions about. Is there anything further by way of evidence you think I need to know?---No.

PN128

All right. Then you're excused as a witness.

<THE WITNESS WITHDREW

[2.33 PM]

PN129

THE COMMISSIONER: So that completes all of the evidence in relation to the matter. What we'll now do is move to closing submissions. I'll start with the applicant in the matter which is Bartercard Digital.

PN130

Mr Hebbink, particularly focussing on the incentive scheme where there's been concessions made that Mr Blewitt did not have all the information about that, I'm interested to hear your submission about why I should not grant him his redundancy.

PN131

MR HEBBINK: We undertook a restructure of the business to align the needs of the business with modern work practices and a new modern CRM. I mean, as Mr Blewitt has pointed out, the business is, you know, is some 30-something years old. You know, it was a pre-Internet business. You know, Zoom certainly didn't exist. We want to embrace technology. In relation to the incentive structure, we were in discussions with Mr Blewitt about this and look, I absolutely accept that he did not have all the information at the time when making this decision.

PN132

THE COMMISSIONER: So at the time he's making the decisions he couldn't compare an apple with an apple, could he?

PN133

MR HEBBINK: Correct.

PN134

THE COMMISSIONER: Yes. All right. Anything further you want to say in relation to the Blewitt matter?

PN135

MR HEBBINK: No, thank you.

*** NAOMI RICE

XXN MR HEBBINK

PN136

THE COMMISSIONER: All right.

PN137

Mr Blewitt, anything you want to say by way of a closing submission?

PN138

MR BLEWITT: Only that at the time when I was working out my - well, sorry, the time I had my first meeting and it's suggested they'd - you know, for me to think about the role, I said to them, 'Look, can I think about it for a week,' and this was on a Friday - a Thursday afternoon, I believe, just from memory now. So it's a Friday afternoon and they requested 'No,' could I come back to them - so I'd come back in a week and they said, 'No. Can you come back before Tuesday as that's the end of the pay time.'

PN139

So I was actually pressed to make a decision as well. So I, upon that and upon, like, I mentioned before (indistinct) some of the letters that went out, some of the intimidating letters, some of the warning letters, some of the emails that came out from head office, I made my decision that very night and went back to them and said, 'Look, no. I won't be taking it.'

PN140

And so right up until that period I thought on the 24th of the 11th was going to be my last day. Obviously, I've had a termination letter given, I've had a payout given. I've got all these things and then at the eleventh hour at, you know,

2 o'clock on the day before I'm supposed to finish, I get an email saying that they were going to fight my redundancy which, you know, after starting with this business in 1996, you know, did nothing but cause incredible stress and I thought I was leaving and doing a nice handover.

PN141

And, you know, the anxiety and the stress that it caused not me obviously Naomi as well but I'm only speaking on my behalf but I'm sure there'll be - you'll hear a few more cases of this as well. Yes. It just felt awful and wrong and you know, the drama that it's caused (indistinct).

PN142

THE COMMISSIONER: (Indistinct) Mr Blewitt, that might be right but how they treated you - I'm struggling to see the relevance in terms of me comparing whether or not it's an exceptional alternate employment.

PN143

MR BLEWITT: Yes. It absolutely wasn't an exceptional - but I'm just (indistinct).

PN144

THE COMMISSIONER: No, no. What I'm saying is the fact that they gave you late notice about the fact they're going to challenge the redundancy. I'm struggling to understand how that is relevant to the question and decision I have to make about whether or not you were offered acceptable term of employment.

PN145

MR BLEWITT: All right. Yes. I guess I'm just trying to explain the scenario that we found ourselves in but you're right. It, you know, wasn't an acceptable offer. It wasn't - yes, I could - it wasn't acceptable. I didn't accept it and for all those reasons and once I didn't, it just seemed to get worse from there so - which vindicated my decision.

PN146

THE COMMISSIONER: All right. Anything by way of a reply, Mr Hebbink, in relation to the Blewitt matter?

PN147

MR HEBBINK: No, thank you.

PN148

THE COMMISSIONER: Thank you. All right. So that closes the Blewitt matter. In relation to the Rice matter, Mr Hebbink, do you have any closing submissions to make?

PN149

MR HEBBINK: My final comment would be that I think the unfortunate personal circumstances Naomi found herself in had a significant bearing on her decision to take a redundancy.

PN150

THE COMMISSIONER: I'm struggling to understand how that's relevant. The question before me is whether or not there was an offer made of acceptable alternate employment. That's really all I care about.

PN151

MR HEBBINK: The job that we were offering was substantially similar to the role that Ms Rice was already performing and we even offered a pay rise which she asked for.

PN152

THE COMMISSIONER: But you would say substantially similar role with an enhanced salary.

PN153

MR HEBBINK: Correct.

PN154

THE COMMISSIONER: And a preparedness to pay a working from home allowance or something.

PN155

MR HEBBINK: Correct.

PN156

THE COMMISSIONER: All right. Anything further?

PN157

MR HEBBINK: No, thank you.

PN158

THE COMMISSIONER: All right. Well, Ms Rice, tell me why you should get your redundancy if the job is substantially the same, you're getting a pay rise. Do you accept you got - do you accept between the old job and the new job you get a pay rise?

PN159

MS RICE: Well, do I accept that? Yes, they offered me a pay rise, absolutely.

PN160

THE COMMISSIONER: So you were being offered a better paid job in the new job.

PN161

MS RICE: Well, not really because we were getting paid a car allowance and then they take that off us because they're now, the new role is we are not face-to-face, we're now behind a phone, behind a screen so that's the difference. We were client facing going out like - - -

PN162

THE COMMISSIONER: Yes, but a car allowance compensates you for the use of a car.

PN163

MS RICE: Absolutely, yes.

PN164

THE COMMISSIONER: You're now not using a car so you don't get a car allowance but you're getting increased salary. You're better off, aren't you?

PN165

MS RICE: Yes. Absolutely better off but then there's a working from home so, you know, there was a brief discussion of a working from home allowance but as I said to Paul, like, I don't have room to work from home in an adequate office space, like working from your dining table is all right, like, you know, every now and then but not three days a week.

PN166

You know, you need - and specially for the paperwork and stuff like that that we need. You need a filing system. You need adequate office space and I don't have that and they asked for me to send through some office spaces locally and I sent them through but still they pushed the fact of working from home and if it was (indistinct) and I said, 'Well, you know, I could work in my garage maybe but there's no heating and cooling in there and given Melbourne's weather, it's, you know, hot one day, freezing the next, you know, who wants to work in a little garage in a single garage where you're portioning off an end that's full of tools and God knows what else.

PN167

You know, I do not have the working from home space and I still didn't even get - even when I sent through the details, I didn't get, 'All right. Let's look into that for you.' It was more, 'But if you could, would you,' and I was like, you know, I felt like I was pushed into a corner to say that, 'Yes, I could potentially work,' but once I thought it through, I have no space to work from home.

PN168

THE COMMISSIONER: All right. Mr Hebbink, anything by - sorry, anything final from you, Ms Rice?

PN169

MS RICE: I was just going to say and - sorry. And you know, there was - if there was a working from home we would be, you know, compensated for it but then there was still no sort of rough figure to help make those decisions. You know, you have sundries and everything - overhead, you know, you're not working - when you're not at home obviously you're not using your gas and electricity and all that sort of stuff so if you're working from home all, you know, three days a week for me, that raises a significant amount on your bills.

PN170

THE COMMISSIONER: Yes. Anything further?

PN171

MS RICE: No.

PN172

THE COMMISSIONER: Mr Hebbink, anything by way of a reply?

PN173

MR HEBBINK: No, thank you.

PN174

THE COMMISSIONER: All right. Thank you.

PN175

All right. Well, that completes the evidence and the submissions in relation to both matters. It's necessary for me to reserve my decisions and I do so. That means I will not be issuing a decision today. I need to request the transcript and review what has transpired today and review the materials again and I will write my decisions in due course and they will be issued at some point in the new year. The Commission is adjourned.

PN176

MR BLEWITT: Thank you.

PN177

MS RICE: Thank you.

PN178

MR HEBBINK: Thank you.

ADJOURNED INDEFINITELY

[2.43 PM]

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