



TRANSCRIPT OF PROCEEDINGS
Fair Work Act 2009

VICE PRESIDENT ASBURY

AM2024/7

s.158 - Application to vary or revoke a modern award

**Application by Wiffen
(AM2024/7)**

Rail Industry Award 2020

Brisbane

12.30 PM, FRIDAY, 17 MAY 2024

Continued from 05/04/2024

PN1

THE VICE PRESIDENT: Good afternoon. Could I just start by taking the appearances please.

PN2

MR WIFFEN: This is Matthew Wiffen, I'm the President.

PN3

SPEAKER: My surname is (Indistinct).

PN4

THE VICE PRESIDENT: Sorry, just bear with me for one moment. I'll just – I might just go through them. That might be easier, just so I – I have just got a - - -

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So for the applicants, we have got Mr Smith?

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MR SMITH: Present.

PN7

THE VICE PRESIDENT: And Mr Wiffen as an interested party.

PN8

MR WIFFEN: Present.

PN9

THE VICE PRESIDENT: And the Australian Industry Group. We've got you there, Ms Bhatt?

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MS BHATT: Yes, Vice President.

PN11

THE VICE PRESIDENT: And from the RTBU, we've got Mr Aldridge.

PN12

MR ALDRIDGE: Yes, Vice President.

PN13

THE VICE PRESIDENT: Great. Thank you. All right. I've listed the matter today for a mention to just seek the views of the parties about how the matter might proceed. Mr Smith has corresponded and advised that he is no longer in a position to take carriage of the application. And that Mr Wiffen seeks to take carriage of the application and progress it. So from the – I guess Ms Bhatt as the default respondent, even though you're here so far as an interested party, do you have any objection to that course of action?

PN14

MS BHATT: There's no objection. I just wondered whether there might be a technical issue that arises in relation to the application that's been filed and

whether it perhaps needs to be amended which of course, the Commission can do of its own (indistinct).

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THE VICE PRESIDENT: Yes, Yes.

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MS BHATT: If it wanted. Yes.

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THE VICE PRESIDENT: And the – I think what would need to happen is that Mr Smith's application would be varied to indicate that Mr Wiffen was taken now to be the applicant in the matter and to have taken carriage of it.

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MS BHATT: Yes. Yes, Vice President.

PN19

THE VICE PRESIDENT: And then Mr Wiffen would simply adopt the material that Mr Smith's already filed.

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MS BHATT: And that was going to be the other issue that I raised, Vice President, it (indistinct) to know whether that is Mr Wiffen's position. If it is then I can't see why the matter can't proceed in accordance with the directions that have already been issued. But if Mr Wiffen sought a different course of action, then that might need to be revisited.

PN21

THE VICE PRESIDENT: Okay. Mr Wiffen, can you confirm that firstly, you are intending to take carriage of this matter and be the applicant instead of Mr Smith?

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MR WIFFEN: I can confirm that, yes.

PN23

THE VICE PRESIDENT: And also that you will be simply adopting the material that Mr Smith has already filed.

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MR WIFFEN: Yes. That is correct.

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THE VICE PRESIDENT: Okay. So Ms Bhatt, that means the directions can remain in effect. I will grant permission for Mr Smith's application to be amended so that it is taken to have been made by Mr Wiffen and the materials being filed by the applicant already, so we're simply waiting on the further material in reply from the respondent.

PN26

MS BHATT: Yes, Your Honour.

PN27

THE VICE PRESIDENT: All right. And also, Mr Wiffen, I think we're at the point with the confidentiality issue, that it's not going to be feasible to keep suppressing names forever, so what's your view about your name being made public as the applicant?

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MR WIFFEN: Yes, I'm fine with it.

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THE VICE PRESIDENT: All right. Okay. So on that basis I will amend the application accordingly, the directions remain in effect and once the material is in, we'll relist the matter for a further mention to determine how it might progress.

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MS BHATT: Thank you, Vice President.

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THE VICE PRESIDENT: All right. Thank you for that.

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MR WIFFEN: Thank you.

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THE VICE PRESIDENT: Good afternoon, I'll adjourn.

ADJOURNED INDEFINITELY

[12.34 PM]