



TRANSCRIPT OF PROCEEDINGS
Fair Work Act 2009

JUSTICE ROSS, PRESIDENT

s.156 - 4 yearly review of modern awards

Four yearly review of modern awards

(AM2014/285)

Social, Community, Home Care and Disability Services Industry Award 2010

(AM2014/251)

Aged Care Award 2010

Melbourne

1.01 PM, MONDAY, 21 NOVEMBER 2016

PN1

JUSTICE ROSS: Can I have the appearances, please, firstly in Melbourne?

PN2

MR J COONEY: Yes, your Honour, it's Justin Cooney for the Australian Services Union.

PN3

JUSTICE ROSS: Thank you.

PN4

MS L SVENDSEN: Leigh Svendsen for the Health Services Union.

PN5

JUSTICE ROSS: Thank you.

PN6

MR M PEGG: Your Honour, Michael Pegg for Jobs Australia.

PN7

MR A MCCARTHY: Your Honour, Andrew McCarthy for the ANMF.

PN8

JUSTICE ROSS: And in Sydney?

PN9

MR M ROBSON: Michael Robson for United Voice.

PN10

MS M CHAN: Margaret Chan, Australian Business Lawyers and Advisers seeking leave to appear for ABI and NSW Business Chamber.

PN11

MS J ZADEL: Jennifer Zadel for the Australian Federation of Employers and Industries.

PN12

MS R BHATT: If it pleases your Honour, Bhatt, initial R, appearing for the Australian Industry Group.

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JUSTICE ROSS: Thank you.

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MR G LIGGINS: If it please the Commission, Liggins, initial G on behalf of Aged and Community Services and today Leading Aged Services.

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JUSTICE ROSS: Thank you. No one else in Sydney? In Adelaide?

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MS E VAN LINDEN: Van Linden, initial E for the SA Chamber of Commerce and Industry trading as Business SA.

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JUSTICE ROSS: All right. Thank you. The purpose of the mention was to get a report back on where you're up to in relation to the substantive claims affecting these two awards. Who'd like to explain where you're up to?

PN18

MS SVENDSEN: Your Honour, we'll go.

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JUSTICE ROSS: All right.

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MS SVENDSEN: We have, as you would be aware, had several conferences before her Honour, DP Booth, and we talked about this at the last conference. We have two more listed for this year - actually, technically, three more, but two more on the majority of substantive issues and one specifically in relation to coverage. The parties would like to continue those discussions, but if at the end of those discussions they're very clear that we will know whether or not we've got to a point of being able to narrow and reach some agreement in relation to the way forward, so that the proposal that's been put together by us is that we request that the conciliation conferences continue, the two that are listed for 25 November and 5 December; that matters is then stood over for approximately two months to enable interested parties to consult respective members in relation to the matters that we've got to an agreement on, but that we then list for directions in February for filing consent award variations in respect of matters agreed and the filing and serving of some evidence, submissions and programming.

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Your Honour, we believe we're at the pointy end of narrowing down exactly where we will or won't reach agreement, and that we will know at the end of those conferences. While the conferences have all been listed as the Social, Community, Home Care And Disability Services Industry Award, the matters that we've been discussing that are the most poignant are matters that pertain to the Aged Care Award as well, and we're therefore requesting that the same directions would apply - we have a set of draft directions - the same directions would apply in relation to both matters.

PN22

JUSTICE ROSS: All right. So in a nutshell you want to have the conciliations that have been scheduled for 25 November and 5 December, and then have a period of time, and then bring the matters back on for mention and direction in early February, is that it?

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MS SVENDSEN: That's correct.

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JUSTICE ROSS: All right. The only comment I'd make about it would be - I'll check my calendar and get a date for you probably early in the second week in February - but what I would want to have lodged shortly before that hearing would be a joint report, and probably if the employers can identify one individual and the unions identify one, that they can coordinate the discussions for each of you, and then just file a joint report identifying in respect of each of these two awards what are the matters that are agreed, and what are still in dispute, even though they might have been narrowed, and then an outline of what you see as the draft directions for the resolution of the outstanding matters.

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MS SVENDSEN: I don't think there would be a difficulty in that; in fact I think that the parties believe that by the end of 5 December we should have narrowed that. It's really about consulting to ensure with our members after that - - -

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JUSTICE ROSS: I know. I wanted to wait until after the consultation process.

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MS SVENDSEN: Yes, okay, that's fine.

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JUSTICE ROSS: And so you may be in a position to do it in December, but wait until after the consultation and get back together amongst yourselves, and then you should know with some certainty about where you are.

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MS SVENDSEN: Exactly.

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JUSTICE ROSS: And then early Feb file the joint document.

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MS SVENDSEN: I don't think we'll have a problem with that.

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JUSTICE ROSS: All right. Let me just check with the others in Melbourne, and then I'll be looking for a volunteer from the unions and a volunteer from the employers to coordinate the preparation and finalisation of the joint document. Is there anything you want to say about that process that's been outlined?

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MR PEGG: Could I just clarify that those conciliations would be in relation to the Aged Care Award as well, because they had not been listed as the Aged Care Award as well; they've been (indistinct) as the SCHCADS Award.

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JUSTICE ROSS: Yes. I don't know. I think the 25 November and 5 December, do you want me to raise with DP Booth that the discussions will be both Aged Care and the SACS Award?

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MS SVENDSEN: Your Honour, when we had the first conference I think it was listed as both and we all agreed we were continuing with those discussions jointly, although they were listed as SCHCADS, and I think that as a consequence of that, for instance, (indistinct) and ACCHSA have been there for all of those conferences as well to actually discuss all of those matters. But I don't think they've been listed as such, but somebody else might wish to.

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JUSTICE ROSS: No, they haven't been. I can talk to DP Booth and just make sure that both awards are listed for 25 November and 5 December.

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MR PEGG: Thank you, your Honour.

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JUSTICE ROSS: Mr Pegg, anything you want to say?

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MR PEGG: No, we agree with all of that.

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JUSTICE ROSS: Could I go to NSW? Is there anything anyone wishes to say about that process? Sorry?

PN41

MR ROBSON: Apologies, your Honour. I was simply going to volunteer myself to be union's point person for this.

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JUSTICE ROSS: Sure. If I can leave it to the unions to sort out who their point person is.

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MS SVENDSEN: Justin and I are just - appalling behaviour - wonderful, thank you.

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JUSTICE ROSS: All right, well looks like it's unanimous. From the employer interests, who would - - -?

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MR COONEY: Your Honour, I think we'd probably have a chat amongst ourselves and - - -

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JUSTICE ROSS: No, that's absolutely fine, and I'm happy for you to talk amongst yourselves. It's not to represent the interests of the other; it's just to coordinate the preparation of the joint document. But can I just be clear about the process then. You have two further conciliation conferences scheduled before DP Booth. I'll talk to DP Booth to make it clear that the listing of those matters is for both the Aged Care and the SACS Award. What's envisaged is that - and I'll check the dates and I'll send out a note with the notice of listing later today - that

at some point in early February you would provide a joint document that sets out the areas that are agreed, matters remaining in dispute, the extent of the dispute, and some draft directions as to how the remaining matters in dispute are to be determined; that I would look to have a further mention of these two awards at some stage, probably early in the second of February. So that's the proposition. Are there any comments about any of that? No?

PN47

MS SVENDSEN: I'd just like to say we actually did up some draft directions which I'm happy to flick through to you, your Honour.

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JUSTICE ROSS: Look, I think, circulate it to the others, make sure everyone's got it and everyone is happy.

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MS SVENDSEN: They've all got it.

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JUSTICE ROSS: Then it'll be a fairly short mention really, and if there's some dispute about the directions, well just set out what that is in the joint document and we'll deal with that when we have the mention. Does anyone in Sydney want to say anything? No? In Adelaide?

PN51

MS VAN LINDEN: No, we don't have any objections.

PN52

JUSTICE ROSS: Is there anything else I can do for you? No? All right. Well I'll send out that note either today or tomorrow. Mr Pegg, if the employer interests can have the conversation - in fact, we can leave you and you can use the video link for that purpose afterwards, once the unions have gone - and just let my associate know who the contact will be, and I'll assume that the contact will be Mr Robson from United Voice from the union's side.

PN53

MS SVENDSEN: Thank you, your Honour.

PN54

JUSTICE ROSS: Nothing further? Thanks very much for your attendance. I'll adjourn.

ADJOURNED INDEFINITELY

[1.12 PM]