

QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

Industrial Relations Act 1999 – s. 317 – proceedings started by commission of its own initiative

TRADE UNION TRAINING AUTHORITY LEAVE (B/2005/1193)

COMMISSIONER FISHER

16 January 2006

Trade Union Training Authority – trade union training leave – obsolete provisions in awards – draft amendments provided to parties – objections to draft amendments – objections rejected – *Industrial Relations Act 1999* s. 317 and s.126(c).

DECISION

The Commission has acted on its own motion pursuant to s. 317 of the *Industrial Relations Act 1999* (the Act) to delete reference to the Trade Union Training Authority (TUTA) where it appears in clauses of Awards dealing with trade union training leave. The reason for the action is that TUTA no longer exists in the form that it was when TUTA leave was introduced into awards. Section 126(c) of the *Industrial Relations Act 1999* obliges the Commission to ensure that an award does not contain provisions that are obsolete or require updating. As the second round of Award Review was underway, the Commission considered it appropriate to include in it the review of these clauses to remove the obsolete reference to TUTA.

The Commission's application was listed for hearing on 12 December 2005 where the draft amendments were made available to the award parties affected by the application. In essence, the draft amendments deleted reference to TUTA and inserted the words "the Union" in their place.

Various employer organisations requested and were granted time to consider the draft amendments. After considering the drafts, most employer organisations did not take issue with them. Objections to the draft amendments were received, however, from the Electrical and Communications Association Queensland, Industrial Organisation of Employers (ECA), the National Retail Association Limited, Union of Employers (NRA) and the Queensland Hotels Association, Union of Employers (QHA) in respect to awards to which they have responsibility.

The matter was relisted for further hearing on 9 January 2006 to hear those organisation's objections and the submissions of the Queensland Council of Unions (QCU) and The Australian Workers' Union of Employees, Queensland (AWU) in response to the objections.

The NRA advised that it was not opposed in principle to amending the various clauses to remove reference to TUTA but submitted that the amended form of words should take into consideration consultation or facilitation with employer groups to ensure that the training meets the business needs of workplaces. The NRA proposed that the new wording be that leave to be granted to attend "courses and/or seminars conducted or accredited by the Union following consultation with the relevant employer association.". The words underlined reflect the change sought by NRA. That wording was proposed to take account of TUTA having been governed by a tripartite body. Further, the proposed wording was said to acknowledge employer associations in the development of accredited programs and to ensure that the purpose of such courses is to promote good industrial relations.

The QHA, while making its own submissions, largely supported the submission made by the NRA.

The ECA submitted that the relevant clause contained in the Electrical Contracting Industry Award – State 2003 should reflect that any training courses would be jointly approved by it and the Union and should also, in their view, be taken as one block of 5 days.

The Queensland Chamber of Commerce and Industry Limited, Industrial Organisation of Employers (QCCI) reiterated their position conveyed by letter dated 15 December 2005, that they did not object to the Commission's application and had instructions that they neither supported nor opposed the objections raised by other employer parties.

The QCU and AWU each opposed the submissions of the NRA, QHA and ECA. Both organisations preferred the Commission's draft amendments and outlined their reasons in support of their positions.

Conclusion

The Commission has considered each of the submissions made.

In reviewing the existing award clauses that are subject to the objections, it appears that the majority of them currently make provision for either or both of the following:

- courses approved or conducted by the Union as an alternative to courses accredited or conducted by TUTA;
- other courses that are not approved by TUTA but that are agreed between the Union and an employer or employer organisation party to the Award.

Where the vast majority of the Awards in question already provided for trade union training leave to be taken for courses approved or conducted by the Union party to that particular Award, it would not seem to impose any particular inconvenience to the employers to simply delete reference to TUTA. Such an approach will also provide greater consistency across all awards of this Commission.

The amendments to the disputed Awards will take effect from 16 January 2006.

Order accordingly.

G.K. FISHER, Commissioner.

Hearing Details:

2005 12 December

2006 9 January

Mr J. Price for the Queensland Retail Traders and Shopkeepers Association (Industrial Organization of Employers).

Ms V. James-McPhee for the National Retail Association Limited, Union of Employers.

Mr G. Trost for the Queensland Cane Growers' Association Union of Employers.

Mr K. Ryalls for the Electrical and Communications Association, Queensland, Industrial Organisation of Employers.

Released: 16 January 2006

Appearances:

Mr M. Brady and Ms D. Ralston for the Queensland Council of Unions.

Mr C. Simpson for The Australian Workers' Union of Employees, Queensland.

Ms K. Allen for the Automotive, Metals, Engineering, Printing and Kindred Industries Industrial Union of Employees, Queensland.

Ms J. Virine for the Liquor Hospitality and Miscellaneous Union, Queensland Branch, Union of Employees.

Ms E. Hoy for the Queensland Chamber of Commerce and Industry Limited, Industrial Organisation of Employers.

Ms D. Dixon for the Australian Industry Group, Industrial Organisation of Employers.

Mr J. Moore for the Queensland Hotels Association, Union of Employers.

Mr J. Mitchell for The Registered and Licensed Clubs Association of Queensland, Union of Employers.

Ms C. Mibus for the Queensland Motel Employers Association, Industrial Organization of Employers.

Mr D. Gaffy for the Shop, Distributive and Allied Employees Association (Queensland Branch) Union of Employees