



TRANSCRIPT OF PROCEEDINGS
Fair Work Act 2009

ACTING PRESIDENT HATCHER

AM2022/25

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

**Application by Treves
(AM2022/25)**

Horticulture Award 2020

Sydney

9.30 AM, WEDNESDAY, 25 JANUARY 2023

Continued from 21/12/2022

PN58

ACTING PRESIDENT HATCHER: I'll take the appearances. Ms Treves, you appear on your own behalf?

PN59

MS TREVES: Yes.

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ACTING PRESIDENT HATCHER: Mr Duncalfe, you appear for the Australian Workers' Union?

PN61

MR DUNCALFE: I do, Acting President, yes.

PN62

ACTING PRESIDENT HATCHER: Mr Pefanis, you appear for the United Workers' Union?

PN63

MR PEFANIS: Yes, Acting President.

PN64

ACTING PRESIDENT HATCHER: And, Mr Rogers, you appear for the National Farmers' Federation?

PN65

MR ROGERS: Yes, thank you, Your Honour.

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ACTING PRESIDENT HATCHER: All right, well, I understand, Ms Treves, you've now filed all the material that you want to file in response to the union's material and, Mr Rogers, you've filed your submissions in reply, correct?

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MS TREVES: Yes.

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MR ROGERS: That's correct, Your Honour.

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ACTING PRESIDENT HATCHER: Now, Ms Treves, it's your application. There's two ways in which the matter might proceed: the first might be that the Commission simply determines the matter on the papers; that is on the basis of the documents that the various parties have filed. Alternately, the matter could be determined by way of a hearing before the Full Bench of the Commission in which the parties could have the opportunity to cross-examine witnesses and make further oral submissions. What is your preference in that respect, Ms Treves?

PN70

MS TREVES: I would like things to just be (indistinct) on the information I've put forward so far. I have no need to cross-examine.

PN71

ACTING PRESIDENT HATCHER: All right, thank you. Well, I'll turn to the union first: Mr Duncalfe and Mr Pefanis, in circumstances where Ms Treves doesn't want a hearing and doesn't want to cross-examine the witness statements that have been filed in response, do you say that there is any need to have a hearing or can we simply determine the matter on the papers?

PN72

MR DUNCALFE: For the AWU, we can determine this matter on the papers, Your Honour.

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ACTING PRESIDENT HATCHER: Mr Pefanis?

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MR PEFANIS: Likewise for the United Workers' Union – we'd prefer that the matter be dealt with on the papers.

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ACTING PRESIDENT HATCHER: Thank you. What about you, Mr Rogers?

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MR ROGERS: Yes, Your Honour – we're comfortable with that approach, thank you.

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ACTING PRESIDENT HATCHER: Okay, well, on that basis what I will do is I will assemble a Full Bench to determine the matter. We will consider the material that's been filed by the parties. That's the written statements and the submissions and we'll issue a decision in relation to the matter as soon as we practically can. So if there is nothing further, Ms Treves – if you have any questions about the procedure, place them now otherwise we'll adjourn and simply take that course.

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MS TREVES: I'm happy with that, thanks for your time and for everybody else's time.

PN79

ACTING PRESIDENT HATCHER: All right. I thank the parties for their attendance. We'll now adjourn and the matter will be determined according to the procedure I've just outlined. Thank you.

ADJOURNED INDEFINITELY

[9.47 AM]