



TRANSCRIPT OF PROCEEDINGS
Fair Work Act 2009

JUSTICE HATCHER, PRESIDENT

AM2023/7

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

**Application by Mallett
(AM2023/7)**

Road Transport and Distribution Award 2020

Sydney

10.00 AM, THURSDAY, 4 MAY 2023

Continued from 11/04/2023

PN1

JUSTICE HATCHER: Firstly, I note there is no appearance by the applicant. Ms Biviano, you appear for the Transport Workers' Union?

PN2

MS L BIVIANO: I do, your Honour.

PN3

JUSTICE HATCHER: Ms Bhatt, you appear for the Australian Industry Group?

PN4

MS R BHATT: Yes, your Honour.

PN5

JUSTICE HATCHER: I will note for the record that we attempted to telephone the applicant four times and we have received no response.

PN6

In any event, the Commission has circulated to the parties a draft variation to give effect to, I think, the point being made by the applicant in his application. I think the only response we have received on that is from the TWU; is that correct?

PN7

MS BIVIANO: That's correct, your Honour.

PN8

JUSTICE HATCHER: The TWU accepts the variation with one modification to retain words that were contained in the existing clause. Ms Bhatt, do you wish to express any view about that?

PN9

MS BHATT: We don't oppose that proposal from the TWU.

PN10

JUSTICE HATCHER: All right. Now the question I want to ask the parties is, in the event that we receive no further response from the applicant, should the Commission proceed and make the variation, or, alternatively, should we just strike the application out?

PN11

MS BHATT: Your Honour, the variations proposed appear to be a sensible way of dispensing with the application, but if the application is not pursued, you know, on one view, the variations may not be necessary. We would not oppose the Commission not dealing with the matter of its own motion.

PN12

JUSTICE HATCHER: All right. Do you wish to express a view about that, Ms Biviano?

PN13

MS BIVIANO: Yes. I think the TWU's position is the same, that is that the variation, in and of itself, seems to be useful in the extent to which it would clarify the provisions of that clause should an issue around it otherwise be raised. Again, we wouldn't have any opposition to the Commission dealing with it of its own motion.

PN14

JUSTICE HATCHER: In the circumstances, what I think I propose to do is I will make a statement issuing a provisional view that the draft determination with the variation proposed by the TWU will be made and give parties an opportunity to make any objection and, in the absence of objection, I will make the variation.

PN15

Is there any issue about operative date? Is there any reason why it shouldn't have an immediate operative date?

PN16

MS BIVIANO: No, your Honour.

PN17

JUSTICE HATCHER: All right. I thank the parties for their attendance. We will now adjourn.

ADJOURNED INDEFINITELY

[10.14 AM]