

V.C. 22/2007

SOUTH AUSTRALIA
IN THE INDUSTRIAL RELATIONS COMMISSION

NO. 3479 of 2007

IN THE MATTER of a dispute between Department of Health and the Public Service Association Of South Australia Incorporated.

- and -

IN THE MATTER of a voluntary conference pursuant to Section 200 of the Fair Work Act 1994.

STATEMENT AND RECOMMENDATIONS
COMMISSIONER M.DOYLE
ADELAIDE 5 JULY 2007

This matter concerns a dispute notification by the Public Sector Workforce Division (PSWD) on behalf of the Department of Health (DH). The notification relates to work bans imposed by dental officers employed by DH, who are members of the Public Service Association of South Australia Inc (PSA). DH advises that the imposition of work bans are in support of dental officers' claims for improved remuneration and entitlements.

DH submits that the dental officers are covered by the South Australian Government Wages Parity (Salaried) Enterprise Agreement 2006 (the agreement). Importantly, the agreement contains a 'no extra claims' provision. DH are concerned that there is a likelihood that the current industrial bans and limitations may be escalated if there is no immediate response by DH to the dental officers' claims.

The background to this dispute lies in a claim advanced by the PSA on behalf of the dental officers in June 2006 for a new classification structure and improvements in allowances as a means of addressing critical recruitment and retention issues. The PSA submitted that the South Australian Dental Service (SADS) together with the Central Northern Adelaide Health Service (CNAHS) supported such a claim, but there was little support within Government for such a claim.

In December 2006 the agreement was certified by the Commission with support from both the Government and the PSA. The issues regarding the dental officers' claims did not form part of the agreement and it is on this basis that DH relies upon the 'no further claims' provision within the agreement. The PSA maintains that the certification of the agreement by no means extinguished the aspirations of dental officers to create a new classification structure, which would address recruitment and retention issues within SADS. Indeed, earlier this year the Minister for Health sanctioned discussions between the parties to resolve that very issue. Negotiations proceeded throughout the months of April and May and it was anticipated that a response would be delivered to the PSA and dental officers at a meeting scheduled to be held on 19 June 2007. Apparently that meeting was cancelled at short notice, which triggered an industrial response by dental officers, which is the subject of the current dispute notification that lies before the Commission.

The Commission's approach

I am not persuaded to the view that this dispute will be resolved by simply issuing recommendations for the dental officers to lift their current work bans, by placing reliance upon the 'no extra claims' provision within the agreement. The fact that negotiations for a reclassification of dental officers were well advanced prior to the certification of the current agreement, together with the fact that the Minister for Health has sanctioned further discussions would indicate to me somewhat of a commitment by DH to address recruitment and retention issues within SADS. The PSA have indicated as a part of a means of resolving the impasse which has now developed between the parties, that they would require to be provided with a copy of the SADS report of July 2006 relating to remuneration and retention issues. I am of the view that this document should be provided to the PSA, however, it's contents must not be construed to be a benchmark of the Government's position relating to this dispute. It is anticipated that the document when provided to the PSA, will provide a point of focus that should assist the parties in identifying areas that may resolve the dispute.

Given the protracted nature of the dispute at hand, I would anticipate that DH should be in a position to make a substantive response to the PSA on behalf of the dental officers, regarding their claims. It is noted, that by agreement between the parties, in attendance at the voluntary conference, such a response will be made to the PSA by Thursday 19 July 2007.

It seems appropriate in the circumstances, that whilst DH is preparing a response to the PSA's claim, that all current bans and limitations be lifted for the duration. It is the Commission's understanding that the issues detailed above were agreed to by the parties in attendance at the voluntary conference.

Recommendations

The Commission recommends the following measures to the parties in an endeavour to resolve the dispute between the dental officers and the SADS.

1. DH will provide as a matter of urgency, a copy of the SADS report of July 2006 relating to remuneration and retention issues;
2. DH will make a substantive response to the PSA in respect of its claim which addresses remuneration and retention issues within SADS;
3. The PSA will recommend to its members that all current bans and limitations be lifted pending receipt of DH's response to their claims.

Liberty to apply for further recommendations is hereby granted.

BY THE COMMISSION:



M DOYLE
COMMISSIONER