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Factories and Shops Acts.

COMMERCIAL ARTISTS BOARD.

*NOTE.*—This Determination applies to the whole of the State of Victoria.

IN THE INDUSTRIAL APPEALS COURT.

In the matter of the Determination of the Commercial Artists Board, dated the 27th March, 1945, and published in the *Victoria Government Gazette* on the 9th April, No. 44 of 1945,

and

In the matter of an Appeal by the Master Process Engravers' Association of Victoria,

and

In the matter of an Appeal by the representatives of the employees on the said Board.

(Before His Honour Judge Moore, Mr. C. H. Grant, and Mr. J. V. Stout.)

Tuesday, the 21st day of August, 1945.

These appeals coming on for hearing on the 7th day of May, 1945, and on the above day UPON READING the appeals and having heard Mr. F. P. Derham for the Master Process Engravers' Association of Victoria, and Mr. J. Lazarus for the representatives of the employees on the said Board, this Court doth:

(1) (By consent of the parties so far only as relates to the provisions respecting annual leave) **ORDER AND DETERMINE** that Clause (8) of the said Determination be deleted, and that the following Clauses be substituted therefor:—

“ANNUAL LEAVE.

The following clause shall apply to all employers EXCEPT members of the Master Process Engravers' Association of Victoria—

8. (a) In addition to the holidays provided for by clause 7 hereof, an employee who remains in the service of the same employer for at least a year, shall if the employment has not been terminated, be entitled to two weeks' leave of absence on full pay during each year of service, or bonus as provided in sub-clause (e) hereunder where the service is being terminated.

(b) The employer shall have the right to fix the time when such leave will be given, but must fix a time so that the leave then accrued due will be wholly given in one continuous period within fifteen months after the beginning of the period of service in respect of which the leave is due.

(c) The employer may, if he thinks fit, give at any time in advance the period of continuous leave on full pay prospectively due.

(d) Where any of the holidays provided for in clause 7 hereof so falls in the week as in the ordinary course to entitle an employee to be paid in respect of that holiday although he does not work thereon, and that holiday happens to fall within that employee's period of leave of absence, the days in that period shall be reckoned in addition to that holiday.

Provided that if in consequence of compliance with this sub-clause the said period so reckoned includes two Sundays, one additional day, not being a non-working day, shall be added to and form part of the said period.

(e) Should an employee leave or be dismissed for any reason, other than for a misdemeanour, after completing six months or more of service in any qualifying twelve monthly period he shall be entitled to a pro rata period of annual leave or payment in lieu, based on one day's pay for each complete month of service in such broken twelve monthly qualifying period.

(f) Where the employer is a successor or assignee or transmittee of a business, and an employee was in the employment of the employer's predecessor at the time when he became such successor or assignee or transmittee, the employee in respect of the period during which he was in the service of the predecessor shall for the purposes of this clause be deemed to have been in the service of the employer.

(g) For the purposes of this clause the service shall be deemed to have continued and to continue unbroken and constant notwithstanding any interruption or termination of the employment by the employer if such interruption or termination has been or be made merely with the intention of avoiding obligation hereunder in respect of leave of absence or bonus.

(h) For the purposes of this clause, a month shall be reckoned as commencing with the beginning of the first day of the employment or period of employment in question, and as ending at the beginning of the day which in the latest month in question has the same date number as that which the commencing day had in its month, and if there be no such day in such subsequent month, shall be reckoned as ending at the end of such subsequent month.

(i) Each employee before going on leave shall be paid two weeks' wages.

(j) An employee who is to be given leave as provided in sub-clause (a) herein shall be given at least two weeks' notice of the commencing date on which he will be required to take his leave.

**The following clause shall apply to such employers as are members of the Master Process Engravers' Association of Victoria—**

8A (i) In addition to the holidays provided for by clause 7 of this Determination, an employee who remains in the service of the same employer for a period of at least a year, shall, if the employment has not been terminated, be entitled to seven consecutive working days' leave of absence on full pay during each year of service. For the purpose of this clause Saturdays, Sundays, and holidays named in clause 7 shall not be regarded as working days.

(ii) Should the services of an employee be brought to a termination after the expiration of six calendar months, but before the expiration of twelve calendar months from the date upon which employment commenced, he shall be granted a proportionate number of days' leave or payment in lieu thereof.

(iii) Where the employer is a successor or assignee or transmittee of a business if an employee was in the employment of the employer's predecessor at the time when he became such successor or assignee or transmittee, the employee in respect of the period during which he was in the service of the predecessor, shall for the purposes of this clause, be deemed to be in the service of the employer.

(2) (By consent of the parties so far only as relates to the provisions respecting rest period) **ORDER AND DETERMINE** that Clause (15) of the said Determination be deleted, and that the following Clause be substituted therefor:—

**REST PERIOD.**

15. Each employee except males employed by members of the Master Process Engravers' Association of Victoria shall be granted a rest period of not less than ten minutes each morning and afternoon. Such rest periods shall be counted as time worked.

Reasonable facilities shall be provided by the employer for the employee to have refreshments during such intervals, if the employee so desires."

(3) **ORDER** that the provisions of the said Determination which prescribe rates of wages come into force and be operative as from the beginning of the first pay period commencing on or after the 21st day of August, 1945.

(4) (By consent of the parties) **ORDER AND DETERMINE** that, save as set out in paragraphs (1) and (2) above, and without prejudice to the rights of the parties at any future time to raise again any of the matters in issue, the appeals be dismissed.

By the Court,

REX. L. CECIL,

Registrar.