

QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

CITATION: *Jones v State of Queensland (Queensland Police Service)* (No 2) [2020] QIRC 029

PARTIES: **Jones, Lynette**
(Applicant)

v

State of Queensland (Queensland Police Service)
(Respondent)

CASE NO: D/2018/59

PROCEEDING: Non-compliance with directions

DELIVERED ON: 26 February 2020

HEARING DATES: 26 February 2020

MEMBER: Thompson IC

ORDERS: **Extension of time granted to respondent to file material.**

CATCHWORDS: INDUSTRIAL LAW - INDUSTRIAL DISPUTE

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where non-compliance with directions by respondent - where applicant objected to acceptance of statement and submissions filed out of time - whether to exercise discretion by granting an extension.

APPEARANCES: Mr M. Black, Counsel instructed by Wallace O'Hagen Lawyers and with him Ms L. Jones, Applicant.
Mr C.J. Capper, State of Queensland (Queensland Police Service), Respondent.

***Ex Tempore* Reasons for Decision
(as edited)**

- [1] The Commission has available a discretion to accept in a proceeding material filed outside of the time parameters set by a Directions Order but this should not be seen by parties to the proceeding as a reason not to meet their lawful obligations.
- [2] In this case the respondent failed to meet the date for the filing of evidentiary material on 20 January 2020 and compounded that failure with the subsequent non-filing of written submissions on 17 February 2020.
- [3] The respondent has today, 26 February 2020, served on the applicant and provided to the Queensland Industrial Relations Commission (the Commission) a statement of evidence and written submissions which I have indicated to the parties was significantly out of time.
- [4] The acceptance of the respondent's statement of evidence and written submissions into the proceedings was objected to by the applicant for reasons properly put by Counsel acting for the applicant and which included prejudice to the applicant.
- [5] The respondent both in written and oral submissions provided an explanation rather than an excuse for the failure to meet the dates set by the Directions Order, giving details of significant workload and staffing issues experienced by the Queensland Police Service Legal Unit in the relevant time between December 2019 and February 2020.
- [6] If the Commission was to refuse acceptance of the late material, there could be a challenge of that decision in the Industrial Court of Queensland which may have the effect of prolonging the substantive application. When considered in terms of the applicant's circumstances this could have the potential to cause her a prejudice of some standing. The prospect of such an appeal however is not reason enough or should ever be reason enough for the making of a decision by the Commission.
- [7] Based on the limited material available, I am of the view that in the interests of natural justice, the Commission ought to exercise a discretion in the present matter by granting the extension of the time to 26 February 2020 for the respondent to file both the statement of evidence and written submissions.
- [8] There will be a Further Directions Order issued today in relation to any further statements of evidence in reply and a future hearing date.
- [9] I so order.

