

NORTHERN INDUSTRIAL DISTRICT ROOF TILERS AND
SLATERS.—AWARD

In the Court of Arbitration of New Zealand, Northern Industrial District.—In the matter of the Industrial Conciliation and Arbitration Act, 1925, and its amendments; and in the matter of an industrial dispute between the Auckland Roof Tilers' and Slaters' Industrial Union of Workers (hereinafter called "the union") and the under-mentioned firm and companies (hereinafter called "the employers") :—

Briscoe and Co., Ltd., Customs Street, Auckland.

Clarke, H. C., Ltd., Broadway, Newmarket, Auckland.

Cowperthwaite Ltd., 852 Three Kings Road, Mount
Roskill, Auckland.

Craig, J. J., Ltd., St. George's Bay Road, Parnell,
Auckland.

Penman and Jeffrey, 19 Crowhurst Street, Newmarket,
Auckland.

Winstone Ltd., Queen Street, Auckland.

Young, W. B., Ltd., Galloway Street, Hamilton.

THE Court of Arbitration of New Zealand (hereinafter called "the Court"), having taken into consideration the matter of the above-mentioned dispute, and having heard the union by its representatives duly appointed, and having also heard such

of the employers as were represented either in person or by their representatives duly appointed, and having also heard the witnesses called and examined and cross-examined by and on behalf of the said parties respectively, doth hereby order and award:—

That, as between the union and the members thereof and the employers and each and every of them, the terms, conditions, and provisions set out in the schedule hereto and of this award shall be binding upon the union and upon every member thereof and upon the employers and upon each and every of them, and that the said terms, conditions, and provisions shall be deemed to be and they are hereby incorporated in and declared to form part of this award; and, further, that the union and every member thereof and the employers and each and every of them shall respectively do, observe, and perform every matter and thing by this award and by the said terms, conditions, and provisions respectively required to be done, observed, and performed, and shall not do anything in contravention of this award or of the said terms, conditions, and provisions, but shall in all respects abide by and perform the same. And the Court doth hereby further award, order, and declare that any breach of the said terms, conditions, and provisions set out in the schedule hereto shall constitute a breach of this award, and that a penalty as by law provided shall be payable by any party or person in respect thereof. And the Court doth further order that this award shall take effect as hereinafter provided, and shall continue in force until the 7th day of August, 1945, and thereafter as provided by subsection (1) (d) of section 89 of the Industrial Conciliation and Arbitration Act, 1925.

In witness whereof the seal of the Court of Arbitration hath hereto been affixed, and the Judge of the Court hath hereunto set his hand, this 17th day of November, 1944.

[L.S.]

A. TYNDALL, Judge.

SCHEDULE

Interpretation

1. This award shall apply only to workers employed fixing-roofing in tiles, slates, or corrugated asbestos.

Hours of Work

2. (a) The ordinary hours of work shall not exceed eight per day, to be worked between the hours of 7.30 a.m. and 5 p.m. on five days of the week, Monday to Friday, both days inclusive.

(b) One hour shall be allowed for lunch on each day, but an employer may agree with his workers to allow not less than half an hour for lunch.

(c) Notwithstanding the foregoing, if in any calendar week a worker has lost time through wet weather he may work between 7.30 a.m. and 12 noon on Saturday of that week without payment of overtime, provided that the total time worked in that week, including the time worked on the Saturday, shall not exceed forty hours.

(d) No worker shall be required to work for more than five hours continuously without an interval for a meal.

Wages

3. (a) The minimum rate of pay for journeymen shall be 2s. 9d. per hour.

(b) The worker who is made responsible for carrying out the work and who gives instructions to the other workers shall be paid 1s. per day in addition to the rate provided for journeymen.

(c) When a worker is employed stripping or relaying an old slate, asbestos, tiled, or iron roof which has been laid for over ten years, or such other work as may be agreed upon by the parties to be of a dirty nature, he shall be paid 3d. per hour in addition to the wage mentioned in subclause (a) hereof.

(d) All wages shall be paid weekly not later than Friday within fifteen minutes of the termination of the working-hours, either on the works or at the employer's workshop.

On all work coming within the scope of clause 13 (country work) of this award the wages shall be paid at intervals mutually agreed upon between the employer and the workers concerned.

(e) In the event of pay-day being a holiday, wages shall be paid under the same conditions as set out in subclause (d) hereof on the working-day preceding the holiday.

(f) When a worker is discharged he shall be paid within fifteen minutes of ceasing work; and when a worker leaves a job he shall, on application, be paid within twenty-four hours of leaving.

(g) Workers who are not paid within fifteen minutes after knocking-off time shall be paid at ordinary rates for all waiting-time counting from knock-off time.

Improvers

4. (a) Labourers may be employed as improvers for a period of four years, but no employer shall employ more than one improver to every two or fraction of two journeymen employed by him: Provided, however, that this proportion may be exceeded in particular circumstances with the consent of the union.

(b) An improver is a worker employed under this clause, and shall be paid not less than the following rates:—

	Per Hour.	
	s.	d.
During the first year of service ..	2	5
During the second year of service ..	2	6
During the third year of service ..	2	7
During the fourth year of service ..	2	8

(c) The employer shall supply to the improver a certificate stating particulars of his employment under this clause, and the improver shall produce such certificate to any future employer for the purpose of ascertaining his wage rate.

(d) The employer shall notify the union of the engagement and dismissal of any improvers forthwith.

Overtime

5. (a) All time worked in excess of or outside the hours prescribed in clause 2 hereof shall be counted as overtime and shall be paid for at the rate of time and a-half for the first four hours and double time thereafter.

(b) Any work done after 12 noon on Saturdays shall be paid for at double time rates.

Holidays

6. (a) The following days shall be observed as holidays and shall be paid for at ordinary rates, notwithstanding that no work is done: New Year's Day, Good Friday, Easter Monday, Anzac Day, Labour Day, Christmas Day, Boxing Day, the birthday of the reigning Sovereign, and Anniversary Day.

(b) If work is done on any of the holidays mentioned in subclause (a) of this clause, such work shall be paid for at the rate of ordinary time in addition to the payment provided for in subclause (a).

(c) An annual holiday shall be granted each worker in accordance with the provisions of the Annual Holidays Act, 1944.

Increase in Rates of Remuneration

7. All rates of remuneration, which term includes time and piece work rates, overtime, and any other special payments provided for in this award, shall be subject to the provisions of the general orders dated the 9th August, 1940, and the 31st March, 1942, under the Rates of Wages Emergency Regulations 1940, increasing rates of remuneration as follows:—

(a) The order dated the 9th August, 1940, increases all rates of remuneration by an amount equal to 5 per cent. thereof:

(b) The order dated the 31st March, 1942, increases all rates of remuneration (inclusive of the August, 1940, bonus) by an amount equal to 5 per cent., but this increase is payable—

(i) In the case of males twenty-one years and over, on earnings up to £5 per week only;

(ii) In the case of females twenty-one years of age and over, on earnings up to £2 10s. per week only; and

(iii) In the case of males or females under twenty-one years of age, and apprentices, on earnings up to £1 10s. per week only.

Meal-money

8. Employers shall allow meal-money at the rate of 2s. per meal when workers are required to work after 6 p.m. on Monday, Tuesday, Wednesday, Thursday, or Friday, or after 1 p.m. on Saturday, provided that such workers cannot reasonably get home for their meals.

The allowance for meals provided for in this subclause shall not be subject to general orders of the Court made under the Rates of Wages Emergency Regulations or the Economic Stabilization Emergency Regulations.

Clothing, Shoes, and Tool Allowance

9. For the period of the present war the employer shall pay to each and every worker covered by this award as an allowance to cover the additional cost of clothing, shoes, and tools, 1d. per hour, with a maximum payment in any week of

3s. 4d. Such allowance shall not be subject to past or future orders made by the Court of Arbitration under the Rates of Wages Emergency Regulations or the Economic Stabilization Emergency Regulations.

Termination of Employment

10. One hour's notice of the termination of the employment shall be given by the employer, or the worker, as the case may be.

Piecework

11. Piecework is hereby prohibited.

Suburban Work

12. (a) Where work is done by a worker elsewhere than at the yard of his employer and at a place more than two miles by the most convenient route from the employer's yard or Symonds Street, such worker shall be paid at ordinary rates for all time reasonably occupied by him in travelling beyond the starting-point agreed upon, which shall be the employer's yard or Symonds Street.

(b) Any worker being conveyed in his employer's conveyance from starting-point ten minutes before starting-time and returning to starting-point not later than ten minutes after knock-off time, shall not be entitled to travelling-time. Any time in excess of this shall be deemed overtime and shall be paid for at travelling rates.

(c) All fares reasonably incurred by a worker in travelling between the point agreed upon and the job shall be paid by the employer.

(d) No worker residing less than one mile from the place where the work is to be performed shall be entitled to the travelling-time or fares mentioned in this clause.

(e) Where men are conveyed to and from the job by the employer he shall provide a suitable conveyance with seating-accommodation and adequate shelter from the weather.

Country Work

13. (a) "Country work" shall mean work performed at a distance which necessitates a worker sleeping away from his usual place of abode.

(b) Workers required to proceed to country work shall be conveyed to and from the place of such work at the expense of their employer as often as they are required by the employer to proceed to and return from such work.

(c) Subject to subclause (d) hereof, time occupied in travelling shall be paid for at the ordinary rates; but no worker shall be paid more than an ordinary day's wages for any day occupied in travelling, although the hours occupied may exceed eight, unless he is on the same day occupied in working for his employer: Provided that any worker who is called upon to travel more than four hours on Saturday in journeying to a job shall be paid for eight hours, and in returning from a job on Saturday shall be paid for the time actually travelling, with a maximum of eight hours.

(d) Any worker who is called upon to travel to a country job on a Sunday shall receive payment for travelling-time at double time rates.

(e) Any worker employed on country work shall be provided with suitable board and lodging free of charge by his employer.

(f) Notwithstanding anything contained herein, an employer may agree with any worker that in respect of any specified country work the hours of work shall be other than those hereinbefore prescribed: Provided, however, that all time worked outside or in excess of such prescribed hours shall be considered overtime and shall be paid for at the rate of 1d. per hour in addition to the ordinary rates.

(g) It shall not be competent for an employer to dismiss a worker in a town of his employment and offer him work at some other town without making payment of country allowance.

First Aid

14. Employers shall provide suitable first-aid appliances on all jobs and also in the travelling foreman's car or conveyance.

Right of Entry upon Premises

15. The secretary or other authorized officer of the union of workers shall with the consent of the employer (which consent shall not be unreasonably withheld), be entitled to enter at all reasonable times upon the premises or works and there interview any workers, but not so as to interfere unreasonably with the employer's business.

Disputes

16. The essence of this award being that the work of the employers shall not on any account whatsoever be impeded but shall always proceed as if no dispute has arisen, it is provided that if any dispute or difference shall arise between

the parties bound by this award, or any of them, as to any matter whatsoever arising out of or connected therewith and not dealt with in this award, every such dispute or difference shall be referred to a committee to be composed of two representatives of each side, together with an independent chairman to be mutually agreed upon or, in default of agreement, to be appointed by the Conciliation Commissioner for the district. Either side shall have the right to appeal to the Court against a decision of any such committee upon giving to the other side written notice of such appeal within fourteen days after such decision has been made known to the party desirous of appealing.

Workers to be Members of Union

17. (a) Subject to the provisions of section 18 (5) of the Industrial Conciliation and Arbitration Amendment Act, 1936, it shall not be lawful for any employer bound by this award to employ or to continue to employ in any position or employment subject to this award any adult person who is not for the time being a member of an industrial union of workers bound by this award.

(b) For the purposes of subclause (a) of this clause, a person of the age of eighteen years or upwards, and every other person who for the time being is in receipt of not less than the minimum rate of wages prescribed by this award for workers of the age of twenty-one years and upwards, shall be deemed to be an adult.

(NOTE.—Attention is drawn to subsection (4) of section 18 of the Industrial Conciliation and Arbitration Amendment Act, 1936, which gives to workers the right to join the union.)

Under-rate Workers

18. (a) Any worker who considers himself incapable of earning the minimum wage fixed by this award may be paid such lower wage as may from time to time be fixed, on the application of the worker after due notice to the union, by the local Inspector of Awards or such other person as the Court may from time to time appoint for that purpose; and such Inspector or other person in so fixing such wage shall have regard to the worker's capability, his past earnings, and such other circumstances as such Inspector or other person shall think fit to consider after hearing such evidence and argument as the union and such worker shall offer.

(b) Such permit shall be for such period, not exceeding six months, as such Inspector or other person shall determine, and after the expiration of such period shall continue in force until fourteen days' notice shall have been given to such worker by the secretary of the union requiring him to have his wage again fixed in manner prescribed by this clause: Provided that in the case of any person whose wage is so fixed by reason of old age or permanent disability it may be fixed for such longer period as such Inspector or other person shall think fit.

(c) Notwithstanding the foregoing, it shall be competent for a worker to agree in writing with the president or secretary of the union upon such wage without having the same so fixed.

(d) It shall be the duty of the union to give notice to the Inspector of Awards of every agreement made with a worker pursuant hereto.

(e) It shall be the duty of an employer, before employing a worker at such lower wage, to examine the permit or agreement by which such wage is fixed.

Application of Award

19. This award shall apply to the original parties named herein, and shall extend to and bind as subsequent party hereto every trade-union, industrial union, industrial association, or employer, who, not being an original party hereto, is, when this award comes into force or at any time whilst this award is in force, connected with or engaged in the industry to which this award applies within the industrial district to which this award relates.

Scope of Award

20. This award shall operate throughout the Northern Industrial District.

Term of Award

21. This award, in so far as it relates to wages, shall be deemed to have come into force on the 7th day of August, 1944, and so far as all the other conditions of this award are concerned it shall come into force on the day of the date hereof; and this award shall continue in force until the 7th day of August, 1945.

In witness whereof the seal of the Court of Arbitration hath hereto been put and affixed, and the Judge of the Court hath hereunto set his hand, this 17th day of November, 1944.

[L.S.]

A. TYNDALL, Judge.

MEMORANDUM

The award, apart from the interpretation clause, embodies the terms of settlement arrived at by the assessors in Conciliation Council. In making the award the Court has had regard to the provisions of the Economic Stabilization Emergency Regulations 1942. Wages have been made payable retrospectively, in accordance with the agreement of the parties.

Clause 1 of the terms of settlement reads: "*Interpretation.*—This award shall apply only to workers employed fixing roofing in tiles, slates, or corrugated asbestos, and all asbestos cement accessories."

It was explained that the term "accessories" was intended by the assessors to include the following items manufactured from asbestos cement: "Ridging, spouting, box-gutters, down-pipes, flashings, skylights, ventilators, and some other minor accessories."

Mr. Thompson, appearing on behalf of the New Zealand (except Westland) Plumbers, Gasfitters, and Related Trades' Industrial Union of Workers (referred to hereinafter as the Plumbers' Union), opposed the incorporation in the Northern Roof Tilers' and Slaters' award of clause 1 of the settlement, on the grounds that it included work already covered by the New Zealand (except Westland) Plumbers' and Gasfitters' award (44 Book of Awards 358).

Prior to 11th August, 1943, the membership rule of the Auckland Roof Tilers and Slaters' Industrial Union of Workers (hereinafter referred to as the Tilers' Union) read—

Any roof tiler or slater in the Northern Industrial District of good character and sober habits shall become a member, &c.

On 11th August, 1943, the rule was amended to read as follows:—

Any person employed or about to become employed in fixing roofing in tiles, slates, or corrugated asbestos only in the Northern Industrial District shall become a member, &c.

The relevant portion of the membership rule of the Plumbers' Union, which was last amended on 21st June, 1943, is as follows:—

Any person or any apprentice employed or intending to be employed in the plumbing and/or gasfitting trade, or in plumbing and/or gasfitting work involving the use of substitutes for the usual materials, or employed at chemical plumbing or brazing and/or welding connected with the plumbing trade only in New Zealand (except in the Industrial District of Westland) shall be a member, &c.

The Tilers' Union maintains that its membership rule is wide enough in scope to enable an award made upon its application to cover the fixing of all the asbestos cement accessories mentioned above. The Plumbers' Union claims that the fixing of spouting, downpipes, gutters, valleys, and flashings manufactured from asbestos cement is exclusively plumbers' work, and draws attention to clause 1 of the New Zealand (except Westland) Plumbers and Gasfitters' award (44 Book of Awards 358), which reads:—

This award shall apply to the plumbing and/or gasfitting industry, which industry shall comprise and include plumbers' lead-burning; ships' plumbing; all sanitary work; gasfitting, which includes the fixing and repairing of gaspipes, flue-pipes, installations, and fixing, repairing, and adjusting gas-appliances, but excludes the minor repairs and adjustments to gas-appliances normally carried out and when carried out by maintenance and complaints men in the gas manufacturing and distributing industry under the New Zealand Gasworks (over 12,000,000 Cubic Feet Output) Employees' award; prefabrication of plumbing and/or gasfitting work; brazing and/or welding; hot and cold water fitting; hot-water and heating apparatus; fixing of composition corrugated roofing; fixing of roofing (other than slates, tiles, or bituminous roofing), spouting, downpipes, gutters, valleys, and flashings in any metal, or in any material or composition; the fixing and repairing of vents or iron drainpipes to any house or building. This definition shall not operate to prevent a carpenter from fixing corrugated composition or iron roofing or to prevent roof tilers from fixing corrugated asbestos, or to prevent an engineer from doing work in connection with the fitting of hot-water or heating apparatus which does not come under the provisions of the Plumbers' Registration Act.

The Plumbers' Union also relies on an opinion of the Court given in response to an application for interpretation of the Plumbers' award (43 Book of Awards 191). The Court was asked whether the fixing of fibrolite spouting, fibrolite downpipes, fibrolite gutters, and fibrolite flashings was work coming within the meaning of clause 1 of the Plumbers' award. "Fibrolite" is the name of a proprietary material manufactured of asbestos cement. The Court gave an affirmative answer to the question.

The representatives of the employers and workers in the tilers' dispute submitted that it has been the custom in the building industry for a number of years, and particularly since the war commenced, for workers under the Tilers' award to fix all asbestos cement accessories, including spouting, down-pipes, gutters, and flashings, and they ask that the practice should be allowed to continue and should be recognized in the Tilers' award.

Prior to the war the amount of corrugated asbestos cement roofing being used was, according to the evidence before us, only a sixth of what is being used to-day. The use of asbestos cement accessories has probably increased appreciably more than 600 per cent. since the war commenced. There is no doubt that for many years the fixing of spouting, down-pipes, gutters and flashing in various metals has been regarded as plumbers' work—for example, the Wellington Plumbers' award of 1907 (8 Book of Awards 412) defined plumbing work as follows:—

“Plumbing-work” shall mean and include all sanitary work, gas-fitting, hot and cold water fitting, hot-water and heating apparatus, fixing spouting, downpipes, flashing (including gutters, valleys, and step-flashing), and any roof metal-work.

In view of the reference in the membership rule of the Plumbers' Union to the use of substitutes for the usual materials, we are satisfied that the fixing of the same accessories when manufactured of asbestos cement must be regarded as plumbers' work.

The shortage of metals in Great Britain, due to war conditions, has resulted in the extended use of substitute materials such as asbestos cement in the same manner as, has occurred in New Zealand. A perusal of current trade literature indicates that in the building industry in Great Britain the fixing of asbestos cement spouting, downpipes, &c., is classified as plumbers' work.

In the well-known publication “Specification,” 1943 edition, under the heading “Plumber” the following asbestos cement fittings are dealt with: Rain-water pipes, fittings and gutters, valley gutters. In a trade announcement in the same publication dealing with corrugated asbestos cement roofing and allied products, and including a specification recommended by the manufacturers of a proprietary line of such products, the following fittings are dealt with under the heading “Plumber”: Gutters, heads, rain-water pipes, soil-pipes,

nozzles, shoes, bends, connections, &c.; while under the heading "Roofer" the following accessories are included: Ridge-capping, hip capping, barge boards, apron flashing pieces, corner pieces, asbestos cement dead lights and opening lights, dormer ventilators, and tile soaker flanges.

We think that the scope of plumbers' work defined in the specification referred to is sound and reasonable.

The objection of the Plumbers' Union is sustained, and, in the making of the award, the words "and all asbestos cement accessories" have been omitted from clause 1. The definition of the scope of the award will thus correspond in wording with the membership rule of the Tilers' Union.

Mr. Prime is not in agreement, and his dissenting opinion follows.

A. TYNDALL, Judge.

DISSENTING OPINION OF MR. PRIME

I cannot agree with this decision.

Employers and workers bound by the Tilers' award have been mainly responsible for the successful introduction and wide use of cement asbestos roofing. They have fixed by far the major portion of the total quantity used, the remainder being fixed by private individuals, carpenters, and others, while plumbers have been responsible for only a very small fraction. It has become the custom to interpret the term "fixing roofing" as including not merely the roof, but also those accessories without which a roof is not complete.

The plumbers' rules do not contain any specific clause giving them the sole right to fix either roofs or accessories. They purport to cover "any person . . . in the plumbing-trade, or in plumbing . . . work involving the use of substitute materials." This does not confer any special right to fix accessories to roofs, of either iron or any substitute material; it covers the work of plumbers. The "Oxford Dictionary" definition of "plumber" is "artisan who fits and repairs pipes, cisterns, &c., with lead, zinc, or tin." While it has been customary for plumbers to fix roofs and accessories of iron, it has also been customary for tilers to fix roofs and accessories of cement asbestos, so that custom cannot be invoked in this case to operate against the right of tilers to fix roofing accessories of that material. Indeed, it seems clear that tilers have a right to fix ridging, and perhaps skylights, of cement asbestos, notwithstanding this decision.