

WELLINGTON INDUSTRIAL DISTRICT DRAINLAYERS—AWARD

In the Court of Arbitration of New Zealand, Wellington Industrial District—In the matter of the Industrial Conciliation and Arbitration Act 1954; and in the matter of an industrial dispute between the Wellington, Nelson, Westland, and Marlborough Local Bodies, other Labourers, and Related Trades Industrial Union of Workers (hereinafter called “the union”) and the undermentioned union, persons, firms, and companies (hereinafter called “the employers”):

Wellington Industrial District Drainlayers Industrial Union of Employers, 8 The Terrace, Wellington.

Billington, E. V., 11 Sandford Street, Trentham.

Cox, G. J. H., 2 Kapiti Crescent, Titahi Bay.

Ferguson, G. J., 20 Carlton Street, Melrose.

Downer and Co. Ltd., P.O. Box 1184, Wellington.

Hart, G. J., 3 Grierson Street, Lower Hutt.

Hay, V. J., 18 Stafford Street, Wellington.

Jackson, L. V. and Sons, 17 Hall Street, Wellington.

Kerr, E. A. G., 31 Phillip Street, Johnsonville.

Lucas, M. A. Ltd., 180 Main Road, Tawa Flat.

Quinn, C. R., 32 Izard Road, Wellington.

THE Court of Arbitration of New Zealand (hereinafter called “the Court”), having taken into consideration the terms of settlement arrived at in the above-mentioned dispute and forwarded directly to the Court pursuant to the provisions of section 130 of the Industrial Conciliation and Arbitration Act 1954, 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 26th day of August 1966 and thereafter as provided by section 152 of the Industrial Conciliation and Arbitration Act 1954.

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 20th day of September 1965.

[L.S.]

A. P. BLAIR, Judge.

SCHEDULE

Interpretation

1. This award shall apply to workers who are engaged in work relative to, or in connection or conjunction with, any drain, sump, trap, or gully, in use, being used for, or for the use of, any sewage or storm water drainage purposes,

or for drainage in connection with any septic tank, or any general labouring work associated with the laying of water mains, provided however that nothing in this award shall apply to the laying, repairing, removing, altering or disconnecting of any cast iron drain pipes.

Hours of Work

2. The ordinary hours of work shall be eight hours daily, 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.

Wages

3. (a) The minimum rates of wages for workers under this award shall be: During the first six months of employment with any one employer, 6s. 5½d. per hour. Should the employment be terminated during the first six months by circumstances beyond the worker's control, periods of under six months but of at least three months with other than one employer shall be taken into account.

Thereafter for any worker having qualified as above and employed at work covered by this award for more than six months the rate shall be £13 8s. 4d. per week; for those employed in the industry for longer than 12 months and up to two years the rate shall be £13 15s. 10d. per week; for those employed in the industry for longer than two years and up to four years the rate shall be £14 2s. 6d. per week; for those employed in the industry over four years the rate shall be £14 11s. 8d. per week.

Employment time for the purpose of this award shall include time served at any time prior to the commencement of this award.

Employers shall give to workers when terminating employment a certificate of service which shall be produced on demand for proof of service.

During the qualifying period of six months the special rates provided for herein shall not apply.

The holder of a licensed drainlayer's certificate shall be paid not less than £15 2s. 6d. per week.

The undermentioned workers who have been continuously employed by the same employer for one year or more shall be paid a service bonus of 2d. per hour:

Licensed drainlayers.

Other workers who have been employed in the industry over four years.

(b) Labourers employed in operating heavy mechanical equipment such as cranes, derricks, loaders, etc. (not being steam driven, and excluding any driver of any implement used on excavation work and drawn by horse or hauled or propelled by motor, or of any tractor) shall be paid 4½d. per hour additional.

(c) Workers using power driven tools such as vibrators, hammers, drills, breakers, etc., or in charge of compressors, shall be paid 3½d. per hour additional.

(d) Workers employed in sinking shafts, sumps, pier-holes, or working in trenches over 6 ft in depth, shall be paid the following extra payments:

Over 6 ft and up to and inclusive of 12 ft: 2¾d. per hour extra. Over 12 ft and up to and inclusive of 20 ft: 3¾d. per hour extra. Over 20 ft: The last-mentioned rate, plus 1¾d. per hour additional for every 7 ft over 20 ft.

(e) Workers employed in tunnels in the course of construction shall be paid 4½d. per hour additional to the rates mentioned herein.

Tunnel-work shall mean any underground excavation that is over 15 ft in length or that requires timbering overhead, or any portion of a shaft or trench more than 15 ft in depth below surface level.

(f) Workers doing work in connection with sewerage services which have been used, or are in use, or which necessitates their actually coming in contact with faecal or sewage matter shall receive 5s. per day additional on the rates mentioned herein.

(g) Six hours shall constitute a day's work and shall be paid for as if eight hours had been worked where workers are required to work in a wet place in a tunnel, that is, where there is more than 1 in. of water or where water other than rain is dripping upon them, or in other places where there is foul air.

(h) Six hours shall constitute a day's work and shall be paid for as if eight hours had been worked where workers are required to work inside manholes or sewers at a greater distance than 6 ft from the entrance to such manhole or sewer.

(i) Where workers are required to work in the rain which necessitates their getting wet, they shall be paid 2½d. per hour in addition to the rates set out herein for such time.

(j) A worker responsible for carrying out the work and who has not less than two workers under his control to whom he gives instructions shall be paid not less than 3s. 9d. per day, and if in charge of not less than four workers 4s. 3d. per day in addition to the rates of wages set out herein.

(k) Men working in connection with the cleaning of septic tanks shall be paid 8s. 3d. per day additional to their ordinary wages.

(l) Any worker called upon to perform work of an unusually dangerous nature, or of an unusually dirty or offensive nature shall be paid such extra rate per hour as may be agreed upon between the employer and the worker. Failing agreement, the rate shall be settled by a disputes committee constituted in accordance with the provisions of clause 18 of this award.

(m) Workers working with tar or bitumen on pipes or proprietary compounds used for protective wrapping of pipes shall be paid not less than one third of their ordinary rate in addition to the usual rate payable at the time: Provided that if suitable gloves are supplied, the additional payment need not be made.

Overtime

4. (a) All work done outside or in excess of the daily hours fixed in clause 2 of this award shall count as overtime and shall be paid for at the rate of time and a half for the first three hours and double time thereafter.

(b) Any work done in excess of four hours on Saturdays or after 12 noon on Saturdays shall be paid for at double time rates.

(c) Any time worked in excess of four and a half hours without an interval of half an hour for a meal shall be paid for at overtime rates.

(d) Any worker having to work all day and having to continue to work until midnight shall be given eight hours off or be paid double time rates for all time worked on the second day: Provided that where such eight hour rest break extends into the hours of the worker's normal working day, the employer may defer the starting time of the worker in which case he shall be paid ordinary time rate for the normal working hours not worked by him.

(e) The employers shall endeavour to restrict overtime work if there are any members of the union out of work and available at the time, and the union undertakes, on request, to supply any labour that may be available.

(f) (i) Except as provided in paragraph (ii) of this subclause, a worker required to work on any Saturday, Sunday, or on any holiday shall receive not less than four hours' pay at schedule overtime rates. If more than six hours are worked, not less than eight hours shall be paid at schedule overtime rates.

(ii) In cases of emergency call-outs a minimum payment of two hours shall be made.

For the purposes of this paragraph time occupied in travelling to and from the worker's home shall be counted as time worked.

(g) In circumstances where workers have been requested to report for overtime work (and have not been notified to the contrary) and having reported on the job or at the arranged picking up point find that such work is not available, they shall be paid a minimum of two hours at overtime rates.

Holidays

5. (a) The following shall be the recognised holidays which shall be paid for at ordinary rates, except when the holiday falls on a day other than an ordinary working day: New Year's Day, 2 January, Good Friday, Easter Monday, Anzac Day, Labour Day, the birthday of the reigning Sovereign, Christmas Day, Boxing Day, and Anniversary Day or a day in lieu thereof.

(b) The employer shall pay wages for the above holidays to all workers performing work coming within the scope of this award who have been employed by him at any time during the fortnight ending on the day on which the holiday occurs.

(c) Where any worker has been employed upon work coming within the scope of this award by more than one employer during the fortnight ending on the day on which any of the above holidays occurs, he shall be entitled to receive payment for the holiday from such one or more of those employers, and if more than one, in such proportions as the Inspector of Awards determines.

(d) In the event of a holiday, other than Anzac Day, falling on a Saturday or Sunday, such holiday shall be observed on the succeeding Monday, and in the event of another holiday falling on such Monday, such other holiday shall be observed on the succeeding Tuesday: Provided that an employer may substitute the holidays prescribed in the industry award, but a worker shall not in any calendar year receive a lesser number of holidays than is above prescribed.

(e) Except as otherwise provided, any work done on any of the above holidays or on Sundays shall be paid for at double time rates.

Annual Holidays

6. The provisions of the Annual Holidays Act 1944, shall apply to workers covered by the provisions of this award.

Meal Money

7. (a) The employer shall allow meal money at the rate of 5s. 7d. per meal when workers are called upon to work one hour or later after their usual daily time of knocking off: Provided such workers cannot reasonably get home for their meals, and provided, further, they have not been notified of such overtime on the day preceding the day on which they are required to work overtime.

(b) Men shall work during mealtimes if required to do so by the employer and shall be paid time and a half rates for the time so worked: Provided that in no case shall a man be employed for more than five hours without being given the time usually allowed for a meal.

Protective Clothing

8. Clothing, when issued, shall be on loan and shall be returned to the employer at the expiry of the loan period and in all cases on termination of employment.

The current value of protective clothing not returned or satisfactorily accounted for may be deducted from the earnings of the worker concerned.

Payment of Wages

9. (a) Wages shall be paid weekly and immediately after ceasing work on the regular pay day, which shall not be later than Thursday. All waiting time shall be paid for.

(b) On country work wages may be paid as agreed.

(c) When a worker is discharged he shall be paid without delay, and when a worker leaves a job he shall, on demand, be paid within 24 hours of leaving. All waiting time beyond the prescribed time shall be paid for at ordinary rates.

(d) Workers who, on the coming into force of this award, are lawfully receiving a higher rate of wages than is prescribed in this award, shall not have their wages reduced because of any of the provisions hereof.

(e) No deduction in respect of time lost by any weekly worker shall be made from the wages payable to him except for time lost by reason of the default of the worker or by reason of his illness or of any accident suffered by him.

(f) A time sheet showing the daily ordinary and overtime hours worked by each employee shall be kept by the employer and signed by the employee at the conclusion of the week's work.

(g) With every payment of wages there shall be handed into the keeping of the worker a fully itemised statement of particulars of such payment.

Accidents

10. A modern first-aid emergency case, fully equipped, shall be kept by the employer in a convenient and accessible place where the Inspector of Awards shall deem it necessary.

Accommodation and Safety Precautions

11. The following provisions shall apply to undertakings to which the Construction Act Regulations 1961 do not apply:

(a) Each employer shall provide, where necessary, accommodation to the satisfaction of the Inspector of Awards to enable workers to change and dry their clothes and to have their meals. Except in exceptional cases, no lime, cement, or tools shall be stored in the accommodation provided. The employer shall also provide proper sanitary accommodation.

(b) Where the Inspector of Awards considers it practicable, reasonable ablution facilities shall be established on all jobs and at permanent places of work and at building sites where operations are estimated to last one month or more, hot water shall be made available by the employers for workers.

(c) Boiling water shall be provided at mealtimes and for refreshment respite.

(d) On every job, a modern dust-proof first-aid emergency case, fully equipped, shall be kept by the employer in a position convenient and accessible to workers.

(e) Workers employed on construction work where overhead hazards exist shall be supplied with protective helmets. When helmets are reissued after use, the headbands shall be cleaned and renewed.

- (f) No worker shall be permitted to use an explosive tool such as a bolt pistol unless he holds a certificate from the supplier of the tool that he has been instructed in the use and care of the device and is fully qualified to operate it.

Refreshments

12. Employers shall allow not less than 10 minutes for a hot drink to be partaken during the morning and afternoon.

Suburban Work

13. Work done elsewhere than at the shop of the employer and over $1\frac{1}{2}$ miles from the Te Aro Post Office in the case of Wellington, or from the corner of Ingestre Street and The Avenue in the case of Wanganui, or from the chief or principal post office in any other city or town or borough, shall be considered suburban work, and workers employed thereon shall either proceed to and from such work or they shall be conveyed to and from such work at the expense of the employer, as the employer shall determine. Time reasonably occupied by the workers in travelling, or time occupied in conveying the workers to and from such work beyond the $1\frac{1}{2}$ miles, shall be allowed and paid for by the employer. No worker residing less than $1\frac{1}{2}$ miles from the place where the work is to be performed shall be entitled to the allowance mentioned in this clause. For the purpose of this clause all distances shall be measured by the nearest convenient mode of access for foot passengers.

Country Work

14. (a) "Country work" means work done by a worker in such locality as to necessitate his sleeping elsewhere than at his genuine place and declared place of residence in New Zealand.

(b) The provisions herein contained relative to country work shall apply whether or not the worker, prior to his accepting such country work, is already in the service of the employer, and whether the worker is engaged at the place where the work is to be done or elsewhere, and irrespective of the situation of the employer's usual place of business.

(c) The employer shall convey the worker free of charge, or pay his fare, to and from country work, but once only during the continuance of the work. If, however, the worker is withdrawn from such work by the employer, or if he returns therefrom requiring medical attention in consequence of accident or sickness arising out of and in the course of the employment, and is, in either case, again required on the work, the employer shall again convey him or pay his fare to and from such work.

(d) Time occupied in travelling shall be paid for at the ordinary rates; but no worker shall be paid more than an ordinary day's wage 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.

(e) The employer shall either provide the worker while on country work with suitable board and lodging or, in lieu thereof, pay him for each day of the week other than Sunday the sum of 17s.: Provided that where through circumstances within the control of the employer a worker is employed upon country work for less than six consecutive days, the employer shall provide such board and lodging and may not elect to make such payment in lieu thereof. Suitable board and lodging shall include the providing of mattresses and stretchers.

(f) Where suitable board and lodging is not provided by the employer on or reasonably near to the site where country work is to be performed, workers shall either proceed to and from such work or shall be conveyed to and from such work at the expense of the employer, as the employer shall determine. Time reasonably occupied by the workers in travelling or time occupied in conveying the workers to and from such work shall be allowed and paid for by the employer.

The employer shall refund to the worker reasonable expenses for meals incurred while travelling to and from country work.

(g) When the work is situated less than 50 miles from the employer's place of business, the worker shall be refunded his return fare to and from the place of engagement once every two weeks during the continuance of the work. When the work is situated over 50 miles from the employer's place of business, the refund shall be made once in each two months.

Where the employer makes suitable transport available, the worker shall not be entitled to any refund of fares.

(h) Notwithstanding anything contained herein, and subject to subclause (e) of clause 5 hereof, an employer may agree in writing 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 7d. per hour in addition to the ordinary rates.

Piecework or Sub-letting

15. (a) All piecework shall be prohibited.

(b) It shall be a breach of this award for any employer to enter into any contract or sublet any work coming within the scope of this award on a "labour only" basis, and any worker contracting or taking work on a "labour only" basis shall be guilty of a breach of this award.

Termination of Employment

16. In the case of weekly workers one week's notice of the termination of the employment shall be given by the party desiring to terminate the employment or one week's wages paid or forfeited, as the case may be, and in the case of hourly workers two hours' notice of termination shall be given or two hours' wages paid or forfeited, as the case may be; but nothing herein contained shall prevent an employer from summarily dismissing a worker for misconduct.

Bicycles and Motor Vehicles

17. Workers required to use their own bicycles in connection with their duties shall be paid an allowance of 2s. 6d. per week.

Workers required to use their own motor vehicles in connection with their duties shall be paid an allowance as agreed upon between the employer and the worker concerned.

Disputes Committee

18. The essence of this award being that the work of the employer shall not on any account whatsoever be impeded but shall always proceed as if no dispute had arisen, it is provided that if any dispute or difference shall arise between the parties bound by this award as to any matter whatsoever arising out of or connected therewith, or not provided for herein, 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 a Conciliation Commissioner. 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 14 days after such decision has been made known to the party desirous of appealing.

Unqualified Preference

19. (a) Any adult person engaged or employed in any position or employment subject to this award by any employer bound by this award shall, if he is not already a member of a union of workers bound by this award, become a member of such union within 14 days after his engagement, or after this clause comes into force, as the case may require.

(b) Subject to subclause (a) hereof, every adult person so engaged or employed shall remain a member of a union of workers bound by this award so long as he continues in any position or employment subject to this award.

(c) Every worker obliged under subclause (a) hereof to become a member of a union who fails to become a member, as required by that subclause, after being requested to do so by an officer or authorised representative of the union, and every worker who fails to remain a member of a union in accordance with subclause (b) hereof commits a breach of this award.

(d) Every employer bound by this award commits a breach of this award if he continues to employ any worker to whom subclauses (a) and (b) apply, after having been notified by any officer or authorised representative of the union that the worker has been requested to become a member of the union and has failed to do so, or that the worker having become a member of the union has failed to remain a member.

(e) For the purposes of this clause "adult person" means a person of the age of 18 years or upwards, or a person who for the time being is in receipt of not less than the minimum rate of wages prescribed for adult workers by this award.

(NOTE—Attention is drawn to section 174H of the Industrial Conciliation and Arbitration Act 1954 which gives to workers the right to join the union.)

Under-rate Workers

20. (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 14 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.

Wet Places

21. Where workers are called upon to work in water, slush, mud or wet concrete 1 in. or more in depth, or in wet vegetation at least 9 in. in height, the employer shall provide such workers with gumboots suitable for the work and shall pay them 3¼d. per hour extra. If proper gumboots are not supplied in such circumstances the employer shall pay the workers a total payment of 7½d. per hour extra.

The employer shall ensure that gumboots previously used by another person are sterilised in accordance with Department of Health Regulations before re-issue.

Exceptional Undertakings

22. Notwithstanding anything elsewhere provided in this award, it shall by virtue of this clause be competent for any union of workers being an original party hereto and any employer bound by the award, to mutually enter into an arrangement to meet the circumstances of any undertaking or enterprise, the conditions of which may not be fully met by the provisions of this award.

Where this clause is invoked and an arrangement cannot be mutually agreed, the matter shall be referred to a disputes committee as is provided for under clause 18 hereof.

Right of Entry

23. The secretary or other authorised officer of the union shall be entitled to enter at all reasonable times upon the premises or job of any employer bound by this award for the purpose of interviewing any workers (with the consent of the employer or his representatives, such consent not to be unreasonably withheld), but not so as to interfere unreasonably with the employer's business.

Application of Award

24. This award shall apply to the original parties named herein, and shall extend to and bind as subsequent party hereto every employer who, not being an original party hereto, is, when the 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

25. This award shall operate throughout the Wellington Industrial District.

Term of Award

26. This award, in so far as the provisions relating to the rates of wages to be paid are concerned, shall be deemed to have come into force on the 6th day of September 1965, and so far as all other provisions of the award are concerned, it shall come into force on the day of the date hereof; and this award shall continue in force until the 26th day of August 1966.

1994

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 20th day of September 1965.

[L.S.]

A. P. BLAIR, Judge.

MEMORANDUM

The award, including the operative date of provisions relating to wages, incorporates the terms of settlement arrived at by the parties in the course of an inquiry held before a Council of Conciliation.

Upon being satisfied by supporting documentary evidence that an unqualified preference provision has been agreed to by all the assessors in accordance with section 174B of the Industrial Conciliation and Arbitration Act 1954 (as enacted by the Industrial Conciliation and Arbitration Amendment Act 1961), the Court has inserted clause 19 in the award in the form in which it was agreed upon in the Council of Conciliation.

A. P. BLAIR, Judge.
