

QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

CITATION: *In the termination of TAFE Queensland (TAFE Services Employees) Certified Agreement 2019* [2023] QIRC 135

PARTIES: **State of Queensland (TAFE Queensland)**

AND

Automotive, Metals, Engineering, Printing and Kindred Industries Industrial Union of Employees, Queensland

The Electrical Trades Union of Employees Queensland

Construction, Forestry, Mining and Energy, Industrial Union of Employees, Queensland

Queensland Nurses and Midwives' Union of Employees

Together Queensland, Industrial Union of Employees

United Workers' Union, Industrial Union of Employees, Queensland

CASE NO: CB/2023/34

PROCEEDING: Application for termination of an Agreement

DELIVERED ON: 23 May 2023

HEARING DATE: 23 May 2023

MEMBER: Knight IC

HEARD AT: Brisbane

ORDERS: **The *TAFE Queensland (TAFE Services Employees) Certified Agreement 2019* is terminated.**

CATCHWORDS: INDUSTRIAL LAW – QUEENSLAND – AGREEMENTS – application for termination of a

certified agreement after nominal expiry date – requirements for termination – agreement terminated

LEGISLATION: *Industrial Relations Act 2016* (Qld) ss 189, 228

APPEARANCES: Ms N Wilson and Ms J Wong for the State of Queensland (TAFE Queensland)

Ms S Ellis for Together Queensland, Industrial Union of Employees

Reasons for Decision

- [1] On 17 April 2023, State of Queensland (TAFE Queensland) ('TAFE Queensland') applied to terminate the *TAFE Queensland (TAFE Services Employees) Certified Agreement* ('the agreement'), pursuant to s 228(1) of the *Industrial Relations Act 2016* (Qld) ('the IR Act').
- [2] The agreement has a nominal expiry date of 31 August 2022.
- [3] Section 228(3) of the IR Act provides:
- (3) The commission must approve the termination if, and must refuse to approve the termination unless, satisfied subsection (2) has been complied with and—
 - (a) for an agreement or determination that provides that it may be terminated if particular conditions are met—the conditions have been met; or
 - (b) for an agreement or determination that does not provide for the way it may be terminated—
 - (i) the other parties to the agreement or determination agree to it being terminated; and
 - (ii) termination of the agreement or determination is not contrary to the public interest.
- [4] In making my decision I have had regard to s 228(3), the submissions made by the parties who appeared at the hearing today and the affidavit of Ms Mary Campbell, Chief Executive Officer, TAFE Queensland, filed on 17 April 2023.
- [5] The agreement does not provide that particular conditions need to be met before it may be terminated.
- [6] On 23 March 2023, TAFE Queensland notified the other parties to the agreement of its intention to terminate the agreement. Those parties are:
- Automotive, Metals, Engineering, Printing and Kindred Industries Industrial Union of Employees, Queensland ('AMEPKU');

- The Electrical Trades Union of Employees Queensland ('ETU');
- The Construction, Forestry, Mining & Energy, Industrial Union of Employees, Queensland ('CFMEU');
- Queensland Nurses and Midwives' Union of Employees ('QNMU');
- United Workers' Union, Industrial Union of Employees, Queensland ('UWU'); and
- Together Queensland, Industrial Union of Employees ('TQ').

- [7] I am satisfied TAFE Queensland has provided the requisite notice of its intention to apply to terminate the agreement.
- [8] The TQ appeared today and consented to the present application.
- [9] The following parties wrote to the Commission and sought leave to be excused from appearing which was granted on the basis the parties consented to the present application and would submit to any order or certification made in its absence:
- (a) On 24 April 2023, the ETU wrote to the Commission;¹
 - (b) On 2 May 2023, the AMEPKU wrote to the Commission;²
 - (c) On 18 May 2023, the QNMU wrote to the Commission;³
 - (d) On 19 May 2023, the CFMEU wrote to the Commission;⁴ and
 - (e) On 23 May 2023, the UWU wrote to the Commission.⁵
- [10] No other person appeared or sought to make submissions. I am satisfied that all parties to the agreement agree to it being terminated, and the termination of the agreement is not contrary to the public interest.
- [11] On 17 April 2023, TAFE Queensland made an application under s 189 of the IR Act to certify the *TAFE Queensland (TAFE Services Employees) Certified Agreement 2022*.⁶
- [12] TAFE Queensland and the employee organisations listed at [6] above have agreed to the terms of the *TAFE Queensland (TAFE Services Employees) Certified Agreement 2022* which will replace the agreement.
- [13] Section 228(4) of the IR Act provides that termination takes effect when the Commission's approval takes effect.

¹ Email correspondence received on 24 April 2023.

² Email correspondence received on 2 May 2023.

³ Email correspondence received 18 May 2023.

⁴ Email correspondence received 19 May 2023.

⁵ Email correspondence received 23 May 2023.

⁶ *In the making of the TAFE Queensland (TAFE Services Employees) Certified Agreement 2022*.

[14] I approve the termination of the *TAFE Queensland (TAFE Services Employees) Certified Agreement 2019* with effect from today's date, being 23 May 2023.

[15] I make the following order:

The *TAFE Queensland (TAFE Services Employees) Certified Agreement 2019* is terminated.