



**TRANSCRIPT OF PROCEEDINGS**

*Fair Work Act 2009*

**VICE PRESIDENT ASBURY  
DEPUTY PRESIDENT GOSTENCNIK  
DEPUTY PRESIDENT CLANCY**

**C2023/3094**

**s.604 - Appeal of decisions**

**Appeal by Papias  
(C2023/3094)**

**Melbourne**

**2.00 PM, WEDNESDAY, 19 JULY 2023**

PN1

VICE PRESIDENT ASBURY: Good afternoon. Can we take the appearances, please. Mr Papias, you're representing yourself today?

PN2

MR G PAPIAS: Yes.

PN3

VICE PRESIDENT ASBURY: You're the appellant?

PN4

MR PAPIAS: I'm representing myself.

PN5

VICE PRESIDENT ASBURY: Great, thank you. For the respondent?

PN6

MR NEDAS: Bill Nedas, the respondent.

PN7

VICE PRESIDENT ASBURY: Sorry.

PN8

MR NEDAS: I represent myself.

PN9

VICE PRESIDENT ASBURY: Yes, and you are?

PN10

MR B NEDAS: Bill Nedas.

PN11

VICE PRESIDENT ASBURY: Thanks, Mr Nedas. With you?

PN12

MS V ANASTASIOU: I'm Bill's PA. My name is Vicki Anastasiou.

PN13

VICE PRESIDENT ASBURY: Thank you.

PN14

MS ANASTASIOU: Thank you.

PN15

VICE PRESIDENT ASBURY: Before we start the appeal proper, for my part at least it seems that from reading the decision and reading the documents in the appeal book that there may be some errors in the decision which might result in the decision being overturned, and the appellant being found to have met the requisite period of employment.

PN16

It seems to me that it might be a convenient and timely thing for the parties to do to have a discussion that is facilitated by another Member of the Commission to see if it's possible to resolve this dispute by agreement between you. That is rather than us proceeding to hear the appeal with the possibility that you will be back again for another hearing in relation to whether the dismissal was unfair, whether the respondent is or is not a small business or whether the appellant has served the minimum employment period.

PN17

What is the view of the parties? Are you prepared to engage in an assisted conciliation to see if you can resolve the matter?

PN18

MR NEDAS: Well, we come to agreement on the first hearing and the applicant didn't go ahead with it, so I would rather go all the way now.

PN19

VICE PRESIDENT ASBURY: Okay. Well, perhaps then, Mr Nedas, can you tell us what your role is with the respondent?

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MR NEDAS: Sorry?

PN21

VICE PRESIDENT ASBURY: What is your role? What is your capacity with the respondent?

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MR NEDAS: I am the director of LAMA Furniture.

PN23

VICE PRESIDENT ASBURY: Okay.

PN24

DEPUTY PRESIDENT GOSTENCNIK: In the materials below before the other member of the Commission you described yourself as the manager.

PN25

MR NEDAS: As the manager, yes.

PN26

DEPUTY PRESIDENT GOSTENCNIK: You are employed by the respondent?

PN27

MR NEDAS: For that purpose, yes.

PN28

DEPUTY PRESIDENT GOSTENCNIK: You're employed?

PN29

MR NEDAS: I am an employee, yes.

PN30

DEPUTY PRESIDENT GOSTENCNIK: You're employed, okay. Can I show you some documents?

PN31

MR NEDAS: Yes.

PN32

DEPUTY PRESIDENT GOSTENCNIK: This is the digital court book from the hearing before Yilmaz C. You were sent this; you recognise it?

PN33

MR NEDAS: Yes.

PN34

DEPUTY PRESIDENT GOSTENCNIK: At the bottom of that document there are page numbers; you see that?

PN35

MR NEDAS: Yes.

PN36

DEPUTY PRESIDENT GOSTENCNIK: Can I ask you to first turn to page 57. You will see at the top of that page under the heading of 'Dismissal' – is that your writing, Mr Nedas?

PN37

MS ANASTASIOU: No, it's my writing.

PN38

DEPUTY PRESIDENT GOSTENCNIK: It's your writing, okay. It says there that:

PN39

*At the time the appellant, George, left on Thursday there were another 13 employees –*

PN40

yes –

PN41

*and they stayed at work.*

PN42

MR NEDAS: They stayed at work, yes.

PN43

DEPUTY PRESIDENT GOSTENCNIK: That doesn't include you?

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MR NEDAS: No.

PN45

DEPUTY PRESIDENT GOSTENCNIK: No. So when we count the employees who were employed by the employer at the time there were those 13 employees, there is the appellant, that makes it 14, and there is you, that makes it 15.

PN46

MR NEDAS: Right.

PN47

DEPUTY PRESIDENT GOSTENCNIK: The definition of a small business is a business that has fewer than 15 employees.

PN48

MR NEDAS: Right.

PN49

DEPUTY PRESIDENT GOSTENCNIK: So when the Presiding Member said there might be some errors in the decision below, there appears to be an error in the Commissioner's assumption that you were a small business when in fact on the material before her you weren't.

PN50

MR NEDAS: Right.

PN51

DEPUTY PRESIDENT GOSTENCNIK: Which means that the appellant only needs to serve a period of six months' continuous employment, which on the facts he had completed in the second period of employment. Getting back to the Deputy President's question, do you want to have a discussion with the appellant to see whether you can settle this matter?

PN52

MR NEDAS: We can discuss it, yes.

PN53

VICE PRESIDENT ASBURY: Well, there is a Member of the Commission that is available. Allison C is sitting in the back of the room and she could assist you to see if you can reach an agreement to resolve this matter. If you can't, then we will proceed to hear the appeal, but it is a very large question from my part, anyway, that you are in fact a small business because you didn't count yourself in the 15. We will give you an opportunity to see if you can resolve the matter amicably.

PN54

MR NEDAS: Yes. Can I ask a question? Is part-time included as full employed person or - - -

PN55

DEPUTY PRESIDENT GOSTENCNIK: Yes, yes. Did you count your personal assistant?

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MR NEDAS: Yes.

PN57

VICE PRESIDENT ASBURY: Yes, she is number 1, yes.

PN58

MR NEDAS: Yes.

PN59

DEPUTY PRESIDENT GOSTENCNIK: All right.

PN60

VICE PRESIDENT ASBURY: All right, well, we'll adjourn and wait to hear if there is a result. Thank you.

**SHORT ADJOURNMENT**

**[2.10 PM]**

**NO FURTHER PROCEEDINGS RECORDED**

**[2.10 PM]**