



VICTORIAN BUILDING INDUSTRY DISPUTES PANEL
CHAIRMAN: BOB MERRIMAN

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EGANS PLANT HIRE
(EASTLINK)

CFMEU

RE: WORK ON RDO – 15/10/2007

FRIDAY, 12 OCTOBER 2007

105-2007

DECISION

The Panel was notified by the CFMEU of a dispute on 11 October 2007 involving Egans Plant Hire and the Union arising out of the application of clause 35.5.4 of their Agreement.

The Company communicated with the Union on 11 October at 12.13 pm seeking to vary the agreed RDO calendar. The Union immediately responded to that communication indicating that the Company's notification was not in accordance with clause 35.5.4 in the Agreement and therefore that the parties were now in dispute.

The Union also advised the Company that they were available for discussion as required by the Agreement and further the status quo should be maintained in accordance with the Agreement.

The Company advised the Panel that they were not available to attend the hearing at 11:00 am on 12 October 2007 and the Chairman spoke with Mr Egan, Director of the Company and Mr Watson, Operations Manager indicating the details of the matter and both indicated that they would try and get back to the Chairman before 11:00 am. No such communications occurred and the hearing took place at 11:00 am and the Union tabled correspondence and sought a decision from the Panel.

The majority decision of the Panel is that the Company's notification of 11 October 2007 has not met the requirements of the Agreement for the reasons detailed in our decision on 18 September 2007 (096-2007) involving the same parties together with the fact that the application was not made in accordance with the five day requirement of the Agreement.

The Panel was advised that the Union and the Company had applied the requirements of clause 35.5.4 in recent times.

Therefore on this occasion for the reasons detailed in this decision the RDO Calendar should not be varied.



BOB MERRIMAN
CHAIRMAN



BILL DAVIS
PANEL MEMBER

DATED THIS

12 DAY OF



2007