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Are you in the Construction Industry?

Read on

The importance of meeting Construction Contracts Act timeframes was emphasised recently in the High Court case of Luxta Limited v Capital Construction Limited.

In this case Capital and Luxta were parties to a construction contract for the construction of a townhouse development in Wellington.

Capital (the contractor) served a final payment claim on Luxta. Capital then withdrew it saying it had clerical errors and issued another payment claim. Luxta was then required to follow a particular procedure under the Act. It did not. It should have served a payment schedule within 7 working days explaining any issues.

No payment - what now?

A dispute arose as to the timing of Luxta's obligation to pay and Capital referred the matter to an expert to determine under the Alternative Dispute Resolution clause.

Two days after the hearing of the dispute and before the expert's determination was issued, Capital served a statutory demand on Luxta. A statutory demand is not specific to the construction industry - it can be used by any business chasing undisputed debts and fast tracks the liquidation of a company.

Can they go to a dispute hearing and serve a statutory demand?

Luxta applied to the High Court to set aside the statutory demand saying it was an abuse of process and Capital was not entitled to reject the dispute resolution process and replace it with a statutory demand.

The High Court disagreed. It held that there was no dispute that the debt was owing or that the payment claim was valid. Capital was entitled to enforce the debt despite starting the alternative dispute resolution process.

The High Court noted that the regime under the Construction Contract Act establishes an obligation to pay following a payment claim unless a payment schedule is issued within the required timeframe. This is regardless of whether or not a claim is disputed.

For those businesses in the construction industry, CollectIT can assist in this area and welcomes your contact.

CollectIT prides itself on a simple upfront approach to costs clearly

Case Study

Thomas Construction is owed \$25,000 - undisputed

Thomas Construction Ltd (a company) has an outstanding debt of \$25,000 for some bathroom alterations. They have written to the client on several occasions, to no avail.

Seemingly there is no dispute about the debt so using the collectIT system, Thomas Construction files proceedings in the District Court and arranges for the proceedings to be served on the debtor.

The debtor takes no steps and Thomas Construction obtains an order (or judgment) after an elapsed period of time.

Thomas Construction can continue using the collectIT system to enforce the judgment and collect his money.

[more case studies](#)

Success Story

Eric Moess Fencing Ltd
I was doubtful that I needed collectIT because I kept thinking I could do this myself, and we did not go to a debt collector as we were not happy with the fees they charge.

Using collectIT has been very successful for us because it has systemised our debtor management. I am now sending out the 1st letter in the process much earlier than I used to and we are getting money in the bank much earlier than we used to!

outlined on the website www.collectit.co.nz . Alternatively, give us a call on 07 834 9111 or 0508 collectit (265 5328)

Until next time  don't write off debt...



Catherine Clark & Melanie O'Neill
Directors



I am still chasing 2 very overdue and very large debts and the collectIT office has been extremely approachable and helpful going through the court process.

Andrea Moess
Ph: 07 823 5236

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