

## ADJUDICATE TODAY CASE STUDY



### CLIENT

## Architect vs. Contractor

## Straight-forward and timely resolution of a payment dispute

### Background

An architectural firm (the claimant) that had been operating for more than 10 years entered into a contract with a small, relatively new construction company (the respondent) over goods and services that had been provided during the development of a residential property. The architects were seeking remuneration for invoices they claimed had been unpaid for over seven months.

The claimant used the provisions of the Security of Payment Act to have a payment claim valued by an independent adjudicator. The process was initiated when the claimant contacted Adjudicate Today to make general enquiries on resolving the dispute through adjudication. After reviewing information on the Adjudicate Today website, including relevant templates, the adjudication application was made to Adjudicate Today as an Authorised Nominating Authority (ANA) under the Security of Payment Act.

### The Process

The claimant's adjudication application contained a submission and documents in support of the payment claim, a copy

of the contract plans and drawings. The submission included documented evidence that the claimant carried out the work, the amount unpaid and how it was calculated and the value of the goods and services provided.

The respondent's adjudication response contained a submission and documents supporting its reason for withholding payment, which was that it would pay when it had received overall payment for the property's development.

It took 10 business days for the claimant to have its payment claim valued by an independent adjudicator from the time the application was made. Once the adjudication began, it was Adjudicate Today's role to ensure a fair and impartial adjudicator was appointed and that all applications, requests and administration was carried out quickly, that every step was recorded and that all parties were updated as the matter progressed.

Due to an efficient process, the settlement of the debt spanning seven months was resolved quickly and cost effectively – especially compared with having the matter litigated through the courts.

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### The Determination

The claimant was successful in demonstrating its entitlement to the payment claim with the Adjudicator awarding the whole amount claimed. The Adjudicator also determined the due date for payment, the rate of interest to be applied to the overdue amount and awarded the adjudication costs against the respondent.

The claimant has since made further adjudication applications through Adjudicate Today to seek to recover overdue debts of other customers. ■

### Security of Payment

'Security of Payment' is legislation that provides for the entitlement of contractors, subcontractors, consultants or suppliers in the contractual chain to receive payment due under the terms of their contract from the party higher in the chain. Arbitrary devaluation, late payment and non-payment of progress claims are persistent problems for those who perform construction work or supply goods and services in the construction industry.

Claimants have statutory rights: to progress payments; to claim interest on late payments; to suspend work; and to retain a lawful hold on property.

They also have the right to 'rapid adjudication' of disputes over progress payment amounts. This means an independent adjudicator makes an interim determination as to the amount

of progress payment, if any, to be paid to a claimant by a respondent. The respondent is only entitled to make a submission to the adjudicator on the application if they provided a written response to the payment claim.

### The role of the Authorised Nominating Authority (ANA)

An adjudicator can only be appointed by an Authorised Nominating Authority (ANA) chosen by the claimant. The procedures and timeframes of the adjudication process are strict. An adjudicator's determination, while not final, is an enforceable judgment. If the respondent does not pay the adjudicated amount by the relevant date, the adjudicator's determination can be registered as a judgment in a court of competent jurisdiction.

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