

Challenge an adjudication at your peril!

Hutton Construction Limited v Wilson Properties (London) Limited [2017] EWHC 517 TCC

In the above case the TCC effectively issued a warning to any party wishing to revisit an adjudication decision. Irrespective of errors which may have been made in an adjudication it is highly likely that awards by an adjudicator will be enforced.

In this particular case Wilson had instructed Hutton to undertake certain conversion works. A dispute arose in respect of Hutton's application for payment resulting in Hutton's commencing an adjudication.

On the basis that no valid payless notice had been served by Wilson, an adjudication award was made in favour of Hutton. Hutton attempted to enforce the award and issued proceedings. Wilson did not file any defence but, instead, issued a Part 8 Claim on the basis that it considered that the adjudicator's award had been wrong.

The TCC considered the conditions needed and concluded that, whilst a Part 8 Claim could only be successful in limited cases, as a general rule an adjudicator's award would be upheld. In this case, Wilson's Part 8 Claim effectively amounted to an attempt to re-run the adjudication - the Judge warned any potential defendant that any attempt to run an adjudication again could be seen as an abuse of process and could be risking indemnity costs. Be warned!

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