



Form 73 – Application to deal with a dispute about right of entry

INDUSTRIAL REGISTRAR

04 FEB 2025



Work Health and Safety Act 2011, s 142
Industrial Relations (Tribunals) Rules 2011, r 87

Information

- A person may use this form to apply to the Queensland Industrial Relations Commission to deal with a dispute about a right of entry.
Please read this form carefully and complete all relevant sections.
For further information please refer to the website www.qirc.qld.gov.au or contact the Industrial Registry on 1300 592 987 or via email at qirc.registry@qirc.qld.gov.au.

Application

This is an application to the Queensland Industrial Relations Commission, pursuant to s 142(b) of the Work Health and Safety Act 2011, to deal with a dispute about a right of entry under the Act.

1. Dispute between

Construction, Forestry, Mining & Energy, Industrial Union of Employees, Queensland

AND

B.M.D. Construction Pty. Limited ACN 010 126 100

If there are more parties to the application, please complete a Form 1 – Parties list and file with this form.

2. Particulars of the party making application to deal with the dispute (Applicant)

Form with fields: Name, Basis on which application is made, Name of contact person, Postal/Service address, Direct phone number, Mobile number, Direct email address.

3. Particulars of the other party to the dispute (Respondent)

Name:	B.M.D. Construction Pty. Limited ACN 010 126 100		
Name of contact person:	The Proper Officer		
Postal/Service address:	1 SANDPIPER AVENUE, PORT OF BRISBANE,		
	Suburb/Town	PORT OF BRISBANE	Postcode 4178
Phone number:	(07) 3893 7000	Mobile number:	
Email address:	brisbane@bmd.com.au		

4. Location of the dispute

220 McArthur Avenue, Hamilton, Queensland 4007

5. Subject matter of the dispute

Please outline the issues in dispute between the parties


Please attach a schedule if more room required

See "Annexure A"

6. Briefly state the relevant industrial instrument/s affected (e.g. award, agreement, determination) OR the industry in which the dispute arose and/or type of work being undertaken by those in dispute

Building industry - demolition of building at the 220 McArthur Avenue, Hamilton Queensland

7. Signature of Applicant or representative

Signature:	
Name:	Rohan Patrick Tate
Date:	04/02/2025

Annexure A

Applicant

1. The Applicant is the Construction, Forestry, Mining & Energy, Industrial Union of Employees, Queensland (the **Union**).
2. The Respondent, B.M.D. Construction Pty. Limited ACN 010 126 100, is the principal contractor and has overarching control, of a place where demolition works are being undertaken, at 220 McArthur Avenue, Hamilton Queensland (the **site**).
3. As principal contractor, all entry notices must be provided to the Respondent.
4. The Union is entitled to bring a dispute as it is a relevant union pursuant to section 142 (4) (b) (ii) of the *Work Health and Safety Act* (2011) Qld (**WHS Act**)
5. Dean Mattas, and, Corey Taylor, Organisers of the Union, are both permit holders pursuant to the WHS Act (the **permit holders**).

29 January 2025

6. On 29 January 2025 at 8:00am, the permit holders provided written copies of two entry notices (the **notices**) to the Construction Manager and Projector Manager for the Respondent at the site office at the main compound of the site.
7. The notices were issued in accordance with section 117 of the WHS Act, 24 hours in advance of entry, in respect of suspected contraventions, that relate to, or, affects, relevant workers.
8. The permit holders advised that they would be attending on site on 30 January 2025 at approximately 8:30am.

30 January 2025

9. On 30 January 2025, the two permit holders attended on site at or about 8:30am and were met by approximately thirteen BMD Construction personnel at the main gate.
10. The BMD personnel stated their view that the notices provided on 29 January 2025 were not specific enough to permit entry.
11. After a discussion occurred regarding the permits, the permit holders proceeded to gate three of the site by way of vehicle.
12. At approximately 9:15am, the permit holders were met at gate three of the site by the same personnel that were at the main gate.
13. At or about 9:30am, Work Health and Safety Queensland (**WHSQ**) was contacted by Mr Taylor to request support in respect of a dispute pursuant to section 141 of the WHS Act.
14. At or about 12:00pm, two WHSQ Inspectors, Frank D'Iurra and Dylan Torres attended. Inspector D'Allurra was the lead Inspector.
15. At or about 12:36pm, Inspector D'Iurra indicated that, in his view, the notices had met the requirements for entry.

16. After Inspector D'Iurra indicated that the permits met the requirements for entry, at or about 1:46pm, the permit holders were permitted to attend through gate three.

17. The two permit holders were escorted by:

- a) John Redmond, Safety Advisor, BMD;
- b) Cam Preston, General Foreman, BMD;
- c) Ian Daly, Project Manager, BMD;
- d) Grant Bentsen, Industrial Relations, BMD; and
- e) Steven Lovewell Construction Manager, employer unknown.

(the BMD Representatives)

18. Once on site and through gate three, at approximately 2:15 pm, the BMD representatives:

- a) Refused to provide documentation that related to suspected contraventions, being plant or equipment, pursuant to section 118 (d) of the WHS Act, to the permit holders, related to two excavators, namely:
 - i. Plant maintenance records;
 - ii. Pre-start records; and
 - iii. Log books.
- b) Refused to allow the inspection of any work system or plant, being two excavators, pursuant to section 118 (a) of the WHS Act, namely:
 - i. To observe safety features such as:
 - 1. Labelling of operational controls;
 - 2. The hour meter; and
 - 3. The maintenance schedule;
 - ii. The purpose of the inspection was to act in concert with the documents that should have been provided as set out at 18 (a) above. The provision of the documents would have allowed the permit holders to cross reference the maintenance schedule with the physical inspection.
- c) Refused to allow the inspection of documents related to the traffic management system, pursuant to section 118 (d) of the WHS Act;
- d) Interfered with the permit holders while consulting with the relevant workers, as permitted by section 118 (c) of the WHS Act, regarding the traffic management system by:
 - i. Crowding the permit holders while they were attempting to consult with workers; and

ii. Not permitting the permit holders from speaking with the relevant workers, in private, in so far as they were crowding and consequently in listening distance to the permit holders and the relevant workers.

e) Refused to allow the permit holders to remain at the workplace for the time necessary to achieve the purpose of entry, pursuant to section 118 (f) of the WHS Act:

i. By refusing to provide the information listed above at 18 (a) – (d); and

ii. Directing the permit holders to leave the site before work had completed for the day at approximately 2:33pm.

19. There is an ongoing dispute in respect of the provision of the information above that has not yet been provided, and, the failure to allow the permit holders to remain on site to complete their inspection.

Orders Sought

The applicant seeks the following pursuant to section 142 (e) of the WHS Act:

a) That the permit holders be permitted to access the site and complete their inspection that was prevented as described at paragraph 18; and

b) To permit the permit holders to remain onsite in accordance with section 118 (f) of the WHS Act until their inspections are complete, during the usual hours of the workplace, in accordance with section 127 of the WHS Act.