



**Reed v Eire [2009] NSWSC 678
New South Wales Supreme Court
22 July 2009**

FACTS:

This case concerned an adjudication process under the *Building and Construction Industry Security of Payment Act (NSW) 1999* ("the Act"), which was being sought to be set aside on the basis that there was no valid service.

The claimant under the Act had served an adjudication application by way of email. The respondent to that process, in its adjudication response confined its objection to the jurisdiction of the adjudicator to determine the matter on the basis that there was no valid service.

ISSUES:

Whether service could be affected by way of email for the purposes of the Act?

FINDING:

The Court found, with reference to the Electronic Transactions Act (NSW) 2000, that service was validly affected for the purposes of the Act, by way of email

QUOTE:

Macready AJ [at 31]

"...Does receipt equate to service? Sections 13(3) and 13(4) draw the distinction between electronic communication sent to a designated information system and those that are not. Section 13(3) provides that if an information system has been designated, it can be inferred that receipt into that information system equates to service. If no information system has been identified, then under s 13(4), receipt occurs when the communication comes to the attention of the addressee..."

IMPACT

Service in respect of documents pursuant to the *Building and Construction Industry Security of Payments Act* can be effected by email. Accordingly vigilance is required to ensure every email receives a proper response.

© Doyle's Construction Lawyers 2010

This publication is intended to be a topical report on recent cases in the construction, development and engineering industries. This publication is not intended to be a substitute for professional advice, and no liability is accepted. This publication may be reproduced with full acknowledgement.

Jim Doyle

1800 888 783

jdoyle@doylesconstructionlawyers.com

www.doylesconstructionlawyers.com