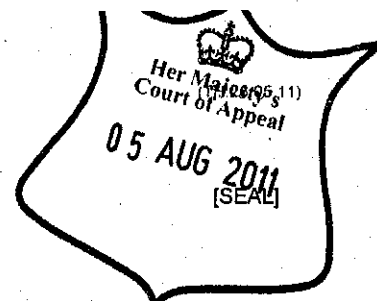




IN THE COURT OF APPEAL, CIVIL DIVISION

REF: A1/2011/1504



23715.

CAIN ELECTRICAL LIMITED -v- COX T/A PENNINE CONTROL SYSTEMS

ORDER made by the Rt. Hon. Lord Justice Jackson

On consideration of the appellant's notice and accompanying documents, but without an oral hearing, in respect of an application for permission to appeal

Decision: granted, refused, adjourned. An order granting permission may limit the issues to be heard or be made subject to conditions.

Refused

Reasons

At the commencement of the adjudication it was common ground that there was a contract in writing between the parties.

During the course of the adjudication the claimant asserted, but subsequently resiled from the assertion, that there was an oral agreement as to who would prove the ducts. The defendant denied that oral agreement.

At the hearing before the judge the claimant did not assert and the defendant denied that there was any oral term concerning the date for payment of invoices.

Accordingly, the judge was right to hold that the requirements of section 107 of the Housing Grants, Construction and Regeneration Act ²⁰⁰⁶ were satisfied.

The judge was right to hold that the adjudicator had jurisdiction.

By the Court

Information for or directions to the parties**Where permission has been granted, or the application adjourned**

- a) time estimate (excluding judgment)
- b) any expedition

Signed: *Rupert Jackson*
Date: 25 July 2011

**Notes**

- (1) Rule 52.3(6) provides that permission to appeal may be given only where –
 - a) the Court considers that the appeal would have a real prospect of success; or
 - b) there is some other compelling reason why the appeal should be heard.
- (2) Rule 52.3(4) and (5) provide that where the appeal court, without a hearing, refuses permission to appeal that decision may be reconsidered at a hearing, provided that the request for such a hearing is filed in writing within 7 days after service of the notice that permission has been refused. Note the requirement imposed on advocates by paragraph 4.14A of the Practice Direction.

DATED 25TH JULY 2011
IN THE COURT OF APPEAL

CAIN ELECTRICAL LIMITED

- and -

RICHARD COX T/A PENNINE CONTROL SYSTEMS

ORDER

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