

VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

CIVIL DIVISION

DOMESTIC BUILDING LIST

VCAT REFERENCE NO. D694/2005

CATCHWORDS

Domestic building – operation of self-executing order – Costs.

APPLICANT	Kazimiera Anna Lancucki
RESPONDENT	Basil Lotriet
WHERE HELD	Melbourne
BEFORE	Senior Member D. Cremean
HEARING TYPE	Hearing
DATE OF HEARING	12 July 2006
DATE OF ORDER	12 July 2006
CITATION	Lancucki v Lotriet (Domestic Building) [2006] VCAT 1420

ORDER

- 1 Order on the claim for \$100,818.30 with interest of \$8,993.54.
2. Order Respondent pay costs of \$15,237.90.

SENIOR MEMBER D. CREMEAN

APPEARANCES:

For the Applicant	Mr S. Stuckey of Counsel
For the Respondent	No appearance

REASONS

- 1 I am satisfied the Respondent knows of these proceedings this day.
- 2 I am satisfied that the Respondent is not bankrupt to the date of these orders.
- 3 I am satisfied, having heard Counsel, that paragraph 7 of the orders I made on 19 April 2006 has taken effect by reason of the Respondent's failure to comply with directions.
- 4 Accordingly, the proceeding stands determined against the Respondent.
- 5 On the question of quantum, informing myself as I may under s98 of the *Victorian Civil and Administrative Tribunal Act 1998* I allow a sum of \$100,818.30 (being \$97,520.50 new contract price and \$3,297.80 variations).
- 6 As to interest I allow the claim for the same in the sum of \$8,993.54.
- 7 As to costs I am satisfied under s109 of the Act, having regard to the Respondent's conduct of the proceedings (thereby causing unnecessary disadvantage to the Applicant) that I should order costs in favour of the Applicant. I do so on County Court Scale "D". Having heard Counsel I fix a sum for costs of \$15,237.90. That sum includes a fee for Counsel of \$2,000.00 which I specifically order.

SENIOR MEMBER D. CREMEAN