

**SENATE STANDING COMMITTEE ON
EDUCATION, EMPLOYMENT AND WORKPLACE RELATIONS**

**QUESTIONS ON NOTICE
ADDITIONAL ESTIMATES 2008-09**

Agency **Office of the Australian Building and Construction Commissioner**

DEEWR Question No. EW1147_09

Senator Fisher asked on 26 February 2009, EEWPR Proof Hansard page 24

Question

Can you provide some examples of Right of Entry breaches from finalised proceedings that are available on your website?

Answer

The Office of the Australian Building and Construction Commissioner has provided the following response.

Two examples of breaches of Right of Entry from decided matters are summarised below. A full list of all ABCC proceedings is available on our website at www.abcc.gov.au.

Alfred v Quirk

On 4 October 2007, CFMEU Official, Andrew Quirk abused the right of entry system at a Hansen Yuncken site in Castle Hill by:

- failing to give 24 hours notice of his entry;
- failing to hold discussions with workers in a designated area;
- erecting union posters; and
- acting aggressively and abusively towards employees.

On 1 December 2008, the Australian Industrial Relations Commission found that Quirk had abused the right of entry conferred by the WR Act.

Radisich v Buchan, Heath, Molina and CFMEU (formerly Hadgkiss v Buchan, Heath, Molina and CFMEU)

On 14 February 2007, CFMEU Official, Walter Molina abused the right of entry system by:

- using the OHS right for a collateral purpose, namely to promote the CFMEU by distributing union paraphernalia to workers; and
- failing to produce his entry permit for inspection when requested to do so.

On 22 February 2007, CFMEU Official, Michael Buchan abused the right of entry system by:

- deliberately seeking to mislead the occupier of the site as to the basis of his right to enter.

On 24 and 27 April 2007, Buchan and CFMEU Official, Doug Heath abused the right of entry system by:

- purporting to exercise OHS and recruitment rights;
- acting in an improper manner by refusing to comply with reasonable directions regarding site safety;
- remaining on site contrary to reasonable requests and directions to leave; and
- embarking on a general safety inspection despite reasonable requests to comply with OHS requirements applicable to the areas inspected and generally.

On 17 November 2008, the AIRC made orders against the CFMEU, Buchan and Molina on the basis that they had abused the rights of entry conferred by the WR Act.