

## EMPLOYERS - USE OF THEIR LOCK OUT POWER

A recent lock out situation arose at Radio Rentals at its Adelaide headquarters. The workforce had voted in a secret ballot for four-hour stoppages in support of their claim for collective agreement. The employees had prior to this been offered AWAs by Radio Rentals. In accordance with the secret ballot the employees walked off the job for a legal four-hour stoppage and within a very short period of time - reported at 2 minutes - the company handed letters to each employee saying that they would be locked out for a period of one month.

The company utilised section 441(4) of the *Workplace Relations Act 1996* as amended.

Section 441(4) provides:-

*Notice of employer actions. If one or more of the negotiating parties is an organisation of employees, any action taken as mentioned in sub-section 435(3) by the employer:-*

- (a) *Is not protected action unless the employer has given the other negotiating party or each of the other negotiating parties:-*
  - (i) *If the industrial action is in response to, and takes place after the start of, industrial action organised or engaged in by an organisation that is a negotiating party in respect of the proposed collective agreement - written notice of the intended industrial action; or*
  - (ii) *In any other case - at least three working days' notice of the intended industrial action;*
  
- (b) *Is not protected action insofar as it relates to a particular employer unless:-*
  - (i) *If paragraph (a)(i) applies - before the industrial actions; or*
  - (ii) *In any other case - at least three working days before the industrial action begins; the employer has given written notice to the particular employee, or has taken other reasonable steps to notify the particular employee, of the intended Industrial action.*

This is an interesting development by an employer in relation to a secret ballot and steps taken in response to secret ballot outcomes. Certainly this may be viewed as an extreme reaction by an employer but one available to an employer under the *Workplace Relations Act*

### WORKPLACE AND EMPLOYMENT LAW ALERT

October 2006

#### FOR FURTHER INFORMATION PLEASE CONTACT

Christopher Campbell  
☎ 07 3223 6403  
✉ [ccampbell@qmtlaw.com.au](mailto:ccampbell@qmtlaw.com.au)

Authorised by:  
Christopher Campbell  
Managing Partner  
QUINLAN MILLER & TRESTON  
GPO Box 2500  
Brisbane QLD 4001  
Telephone: 3223 6403  
E-mail: [ccampbell@qmtlaw.com.au](mailto:ccampbell@qmtlaw.com.au)

1996. What an employer must consider in using such power is the long-term cost to the company, the employees and the relationship breakdowns that it may very well cause. Appropriate and relevant advice needs to be obtained before considering the use of such a power.

For further information on the *Workplace Relations Act 1996* please do not hesitate to contact Christopher Campbell on 3223 6403.

**WORKPLACE AND  
EMPLOYMENT LAW  
ALERT**

October 2006

**FOR FURTHER INFORMATION  
PLEASE CONTACT**

Christopher Campbell

☎ 07 3223 6403

✉ ccampbell@qmtlaw.com.au

Authorised by:

Christopher Campbell

Managing Partner

QUINLAN MILLER & TRESTON

GPO Box 2500

Brisbane QLD 4001

Telephone: 3223 6403

E-mail: ccampbell@qmtlaw.com.au