

COURT OF APPEAL

McMURDO P

Appeal No 6035 of 2005

BORAL RESOURCES (QLD) PTY LTD
(ACN 009 671 809)

Respondent/Plaintiff

and

DAVID JAMES GRIFFITHS
T/HITECH TILT CONSTRUCTIONS

Applicant/
First Defendant

BRISBANE

..DATE 30/09/2005

ORDER

McMURDO P: This is an application for an extension of time within which to appeal. It was filed on the 26th of July 2005 and it concerns a decision of a District Court Judge given on the 21st of July 2003. After the filing of the application the applicant has become bankrupt. The application was listed for mention previously before me on the 1st of September in order to ascertain the Trustee and Bankruptcy's attitude.

It was listed for hearing originally on the 1st of September. It was delisted in order to give the Trustee and Bankruptcy his statutory allotted time to make his election. The Trustee has now advised that because an election was not made within the time required by the *Bankruptcy Act* 1966 (Cth) under s 60 of that Act he is now deemed to have abandoned the action.

In the circumstances I intend, unless you wish to say anything to the contrary, Mr Yam, to strike out the application with costs to be assessed. That is the order made.
