

SUPREME COURT OF QUEENSLAND

CITATION: *Levien v Hodgens* [2007] QSC 317

PARTIES: **S LEVIEN**
(Plaintiff)
v
MAGISTRATE HODGENS
(First Respondent)
SENSIS PTY LTD (ACN 007 423 912)
(Second Respondent)

FILE NO/S: 515 of 2006

DIVISION: Trial

PROCEEDING: Application

ORIGINATING COURT: Supreme Court, Cairns

DELIVERED ON: 20 September 2007

DELIVERED AT: Cairns

HEARING DATE: 2007

JUDGE: Jones J

ORDER: That the applicant pay the costs of the second respondent of and incidental to the application to be assessed on the standard basis.

CATCHWORDS:

SOLICITORS: Applicant self represented
Williams Graham & Carman for the respondent
Bennett Carroll Solicitors for the second respondent

- [1] When delivering my reasons for decision on 10 August 2007 I allowed the parties the opportunity to make submissions on costs by 31 August 2007.
- [2] The only submission received was that made by the second respondent filed on 23 August 2007. The second respondent which was successful in the proceedings, sought an order that the applicant pay its costs to be assessed on the standard basis. The ground relied upon was that, notwithstanding the special provisions in s 49 of the *Judicial Review Act* 1991, the costs should follow the event.
- [3] It was open to the applicant to seek, by the application of s 49(2), a different order but he has not done so.

- [4] On the material before me, having regard to the way the applicant conducted the proceedings and its apparent futility, it was unlikely that he would have succeeded in establishing a basis for relief under the provisions of s 49. I can see no basis for relieving the applicant of the obligation to pay the costs of the successful party against which he proceeded. The costs in these circumstances should follow the event.
- [5] I order therefore that the applicant pay the costs of the second respondent of and incidental to the application to be assessed on the standard basis.