

S106/103  
CS156

Tabled 28/7/06  
Ms Rita Mallia, CFMEU  
Accepted: Ian West MLC

**David Halls v. Boral Formwork and Scaffolding Pty Ltd**

1. Mr Halls was employed as a scaffolding yard employee of Boral Formwork and Scaffolding. Mr Hall who was also a CFMEU delegate and was made redundant on December 7<sup>th</sup> 2005 on the basis of operational requirements. He has been employed with his employer for three years. He has three adult children. His wife has part time work.
2. The Union was of the view that there was still a high workload that was generating significant amounts of overtime per week. A claim for unfair dismissal, pre WorkChoices, was made and Commissioner Larkin of the AIRC accepted that the company had a valid reason for a termination on the basis of its' operational requirements, but found that it did not have a valid reason for the termination of Mr. Hall's employment and made an order to have him reinstated with all lost remuneration to be paid.
3. Approximately, two weeks later, the company called in the workers, and advised that they had re-done the redundancy process and Mr Halls was advised that he was chosen to be made redundant. The Company did not make anyone else redundant.
4. The Union has filed another claim for Mr Halls.
5. Post-WorkChoices, the capacity to challenge the termination of employment, where an employer is able to show an operation reason for the termination is more difficult due to the changes to the legislation. Under WorkChoices an employee cannot make a claim of unfair dismissal where an employer sacks an employee for reasons that include genuine operational requirements.
6. It is very difficult for individual workers to show that a company did not have genuine operational reasons, whatever, that means for their termination.
7. Mr Hall is now picking up casual work when he can. He has lost the security of full-time permanent employment.