



SOUTH
AUSTRALIAN
EMPLOYMENT
TRIBUNAL

Dust Disease cases: Urgent teleconference hearings with regards to the plaintiff's evidence in response to the Covid-19 pandemic – 25 March 2020

Prior to the teleconference hearing

Where possible the plaintiff's evidence-in-chief should be by way of affidavit. Any documents that are to be referred to in the teleconference hearing by any party must be filed and served at least two clear business days before the teleconference hearing commences. Upon receipt by the Court they will be marked for identification by the Judge. The parties will be advised by the Judge's chambers of the MFI number of each document, for example MFI (P) 1, MFI (D1) 2, MFI (D2) 3 etc.

At the teleconference hearing

The plaintiff's evidence will be taken at the teleconference hearing which will be recorded through appropriate arrangements with Sparke and Cannon. Only the plaintiff's lawyers will be physically present with the plaintiff. The plaintiff's counsel will be responsible for taking appropriate steps to ensure safe social distancing. The Judge and the other parties will participate in the hearing by telephone. None of the parties will attend personally before the Judge.

When the teleconference hearing begins, the Judge will remind the parties that this is a formal court process and that the proceedings will be recorded. The Judge will then invite the plaintiff's counsel, as an officer of the Court, to certify that the person who is about to give evidence is the plaintiff in the proceedings and that the documents to be referred to in the hearing are a true and accurate copy of documents previously marked for identification.

The plaintiff will be sworn in by affirmation. The plaintiff's affidavit, previously marked for identification, if adopted by the plaintiff, will then be formally tendered. The plaintiff's counsel may, with leave of the Judge, then ask some supplementary questions and may through that process apply to tender other documents, previously marked for identification.

The other parties will then be permitted to cross-examine the plaintiff and through that process may apply to tender other documents, previously marked for identification. In that event, the tendering counsel will identify the document, such as "the plaintiff's employment record with Acme Industries marked for identification MFI (D1) 2." The plaintiff's counsel will then hand the document to the plaintiff stating for the transcript, "the document I have handed to the plaintiff is the document marked for identification MFI (D1) 2."

Once the plaintiff's evidence has been completed, and to enable sufficient time for the transcript to be provided to the parties, the matter will be referred to a teleconference directions hearing approximately one week later. At that directions hearing any issues regarding the transcript and the further scheduling of the hearing will be dealt with.

The Honourable Justice Steven Dolphin

President

South Australian Employment Tribunal