

Non-compliance with Tribunal directions—dismissal by springing order

Velickovic/Western Australia/Saunders [2006] NNTTA 76

DP Sumner, 15 June 2006

Issue

The issue addressed here was whether it was appropriate for the National Native Title Tribunal to impose springing orders whereby expedited procedure objection applications would stand dismissed if there was non-compliance with Tribunal directions.

Background

The Tribunal wrote to all the parties giving notice of the proposed dates for compliance with directions. Given the native title party's history of non-compliance with Tribunal directions in other matters, submissions were also sought on whether a springing order dismissing the objections for non-compliance with directions pursuant to s. 148(a) of the *Native Title Act 1993* (Cwlth) (NTA) should be made. There was no submission by the native title party.

The Tribunal:

- referred to the native title party's pattern of non-compliance with directions in recent years which had resulted in the dismissal of previous objection applications;
- was satisfied that a springing order was justified in this case—at [19] to [21], referring to *Teelow v Page* (2001) 166 FLR 266; [2001] NNTTA 107 at [10] to [18] and *Dixon v Northern Territory* (2002) 169 FLR 103; [2002] NNTTA 48 at [24] to [25].

It was noted that:

- any future right to negotiate applications made by the native title party would be subject to springing orders when the Tribunal made directions in the relevant matter;
- it was still open for the native title party to make submissions on the issue of springing orders—at [21] to [22].

Decision

The expedited procedure application was dismissed pursuant to s. 148(b) NTA—at [23].