



Adjudication from the adjudicator's perspective - handling jurisdiction issues

Jonathan Cope

Adjudicator | Arbitrator | Expert Determiner | Mediator



Introduction

- What is jurisdiction?
- Types of jurisdictional challenge:
 - Threshold
 - Internal
- Common threshold challenges:
 - More than one dispute
 - No crystallised dispute
 - Dispute previously decided by another adjudicator
 - Essential Living (Greenwich) Ltd v Elements (Europe) Ltd [2022] EWHC 1400 (TCC)
 - Sudlows Ltd v Global Switch Estates 1 Ltd [2022] EWHC 3319 (TCC)
 - Notified sum not paid
 - Bexheat Ltd v Essex Services Group Ltd [2022] EWHC 936 (TCC)



How to handle challenges

- Demanding nature of jurisdictional challenges:
 - Implications of getting it wrong
 - Complex issues
 - Tight time-frame
- Should adjudicators raise issues of jurisdiction themselves?
- When should adjudicators deal with jurisdictional challenges?
- Should the other party be asked to comment on a jurisdictional challenge?
- If so, how long should they be given to comment?
- Should the adjudicator give detailed reasons for their conclusion?
- Should the extent of reasons differ depending on whether the conclusion is binding or non-binding?



How to handle challenges

- If there is an element of doubt on the merits of a jurisdictional challenge, should the adjudicator proceed to reach a decision on the substantive dispute in any event?
- How should adjudicators deal with repeat challenges?
- When dealing with internal jurisdictional issues, should adjudicators consider giving alternative findings?
- What should an adjudicator do if they conclude they do not have jurisdiction?



How to handle challenges

- Should adjudicators recommend the parties seek a Part 8 declaration concerning jurisdiction?
- Should adjudicators charge a fee if they resign on jurisdictional grounds?
- Further reading:
 - *“Jurisdiction of the UK Construction Adjudicator”* (Adjudication Society and Chartered Institute of Arbitrators)
 - *RICS Guidance Note: Surveyors Acting as Adjudicators in the Construction Industry*



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