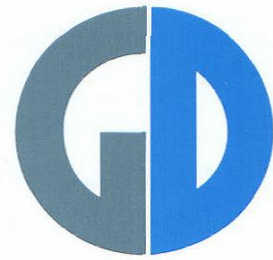


Gun & Davey

Covered



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WITHERS – JD 53/1999

Where a compensating authority carried the onus of demonstrating the facts upon which a Section 36 notice depends the compensating authority will be *dux litis* in a hearing with respect to the validity of the notice unless to do so would be unfair having regard to the circumstances of the given case.

(Note that this decision has been appealed to the Full Bench. Gun & Davey is to intervene on instructions from WorkCover)