

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA FIFTH  
DISTRICT

JULY TERM 2004

CITY OF CRYSTAL RIVER, FLORIDA,

Appellant,

v.

CASE NO. 5D04-759

UNITED BROTHERHOOD OF CARPENTERS,  
ETC.,

Appellee.

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Opinion filed October 1, 2004

Non-Final Appeal from the Circuit Court  
for Citrus County,  
Patricia Thomas, Judge.

Brian Koji of Allen, Norton & Blue, P.A. Tampa, for  
Appellant.

Tobe Lev of Egan, Lev & Siwica, P.A., Orlando, for  
Appellee.

PER CURIAM.

We conclude that under the facts of this case the trial court correctly concluded that the issue of whether arbitration was demanded in a timely fashion should properly be before the arbitrator for determination. *See Howsam v. Dean Witter Reynolds, Inc.*, 537 U.S. 79 (2002); *Piercy v. School Board of Washington County*, 576 So. 2d 806 (Fla. 1st DCA 1991); *Graham Contracting, Inc. v. Flagler County*, 444 So. 2d 971 (Fla. 5th DCA), *review denied*, 451 So. 2d 848 (Fla. 1984); *Rinker Portland Cement Corp. v. Seidel*, 414 So. 2d 629 (Fla. 3d DCA 1982); *Public Health Trust of Dade Co. v. M.R. Harrison Constr. Corp.*, 415 So. 2d

756 (Fla. 3d DCA 1982), *review denied*, 427 So. 2d 737 (Fla. 1983).

AFFIRMED.

THOMPSON, PLEUS and MONACO, JJ., concur.