

Summary of Claim Number C7GF8T8C - Watford County and Family Court

Napier Parking Limited v Mr Christopher Taylor

Documents enclosed:

Appendix 1 - Court Order for £327.45.

Appendix 2 - Court Transcript of Judgement.

The matter related to one unpaid Fixed Charge Notice (FCN) which was issued and attached to Mr Taylor's car at Willen Lake Car Park on 10th July 2016. The FCN was issued for failure to display a valid pay and display ticket.

Mr Taylor failed to pay the charge or appeal against the charge. Mr Taylor sought advice from an online consumer forum, he was essentially advised by 'ericsbrother' a forum regular poster to ignore everything.

Napier Parking applied to the DVLA when payment or appeal was not forthcoming and served a Notice to Keeper under the Protection of Freedoms Act 2012 (POFA). When Napier's correspondence was ignored the case was passed to Gladstones Solicitors, who served a Letter Before Claim and then issued a County Court Claim on Napier's behalf.

Mr Taylor employed a Private Parking Appeals company to guide him through the Court process, he was also able to employ the services of Legal Consultant, that consultant was well versed in the law and goes by the online name of 'BargePole'. The Legal Consultant represented Mr Taylor as his Lay Representative. A substantial defence was submitted.

Throughout Napier's correspondence process Napier advised Mr Taylor that he should seek independent legal advice. Napier also informed Mr Taylor that should he force us to go to Court, we would seek our full legal costs against him under Civil Procedure Rules 27.14(g), on the basis that he had wasted our time and that he did not have, and had never advanced, any legitimate defence to the claim. He was advised that in appropriate circumstances, the rule permits a judge to award:

'...such further costs as the court may assess be the summary procedure and order to be paid by a party who had behaved unreasonably'.

The Judge listened to both sides arguments and found that on the on the balance of probability Mr Taylor was the driver and that a contract had been entered into and subsequently breached. The Judge also made useful findings regarding The Consumer Rights Act and how it did not apply in a Pay and Display Car Park.

As the attached Appendices show, Mr Taylor lost in Court and had significant costs awarded against him. Mr Taylor also had to spend a significant amount of his time on the matter together with an appearance in Court.

Appendix 1 is a copy of the Court Order. Please note that the defendant had to pay the following;

£80 Fixed Charge Notice, **£50** Debt Recovery Fee, **£2.45** Interest, **£50** in Court Fees, **£50** Solicitor Fee, **£95** in Costs as the Judge found that the defendant had been unreasonable.
TOTAL: £327.45

Appendix 2 is a copy of the Transcript from the Official Court Tape. Judgement was made in favour of Napier Parking Ltd.

General Form of Judgment or Order

14 MAR 2017

In the County Court at
Watford

Claim Number	C7GF8T8C
Date	23 February 2017



NAPIER PARKING LTD	1st Claimant Ref 101293.582
CHRISTOPHER TAYLOR	1st Defendant Ref

Before Deputy District Judge Horwood sitting at the County Court at Watford

Upon hearing representatives for both parties

It is adjudged that

the Claimant recover against the Defendant the sum of £132.45 for debt and interest to date of judgment and £100.00 for costs together with loss of Claimant in attending court of £95.00 amounting together to the sum of £327.45.

It is ordered that the Defendant pay to the Claimant the sum of £327.45 on or before 9 March 2017.

Warning

If you ignore this order your goods may be removed and sold, or other enforcement proceedings may be taken against you. If this happens further costs will be added. If your circumstances change and you cannot pay, ask at the court office what you can do.

If judgment is for £5,000 or more, or is in respect of a debt which attracts contractual or statutory interest for late payment, the Claimant may be entitled to further interest.

Address for Payment

How to Pay

Gladstones Solicitors Limited (7372)
The Terrace
High Legh Park Golf Club
Warrington
Cheshire
WA16 6AA

- Payment(s) must be made to the person named at the address for payments giving the Claimant's reference and claim number
- DO NOT bring or send payments to the court - they will not be accepted
- You should allow at least 4 days for your payment to reach the Claimant or his representative.
- Make sure that you keep records and can account for all payments made. Proof may be required if there is any disagreement. It is not safe to send cash unless you use registered post.
- Leaflets on registered judgments, how to pay and what to do if you cannot pay are available from the court.

The court office at the County Court at Watford, Cassiobury House, 11/19 Station Road, Watford, WD17 1EZ. When corresponding with the court, please address forms or letters to the Court Manager and quote the claim number. Tel: 0300 1235577 Fax: 0870 7394015. Check if you can issue your claim online. It will save you time and money. Go to www.moneyclaim.gov.uk to find out more.

Claim No: C7GF8T8C

IN THE WATFORD COUNTY AND FAMILY COURT

3rd Floor Cassiobury House,
11-19 Station Road,
Watford.

Thursday, 23 February 2017

BEFORE:

DEPUTY DISTRICT JUDGE HORWOOD

BETWEEN:

NAPIER PARKING LIMITED

Claimant

- and -

MR CHRISTOPHER TAYLOR

Defendant

(Representation not supplied)

JUDGMENT
(As Approved)

(Transcribed from the official tape recording by
Cater Walsh Reporting Ltd, 1st Floor, Paddington House
New Road, Kidderminster, DY10 1AL. Official Reporters
and Tape Transcribers)

Thursday, 23 February 2017

(Please note that due to the poor standard of recording it has not been possible to produce a high quality transcript in this case)

JUDGMENT

DEPUTY DISTRICT JUDGE HORWOOD:

1. This is a claim by an organisation which provides parking on a Pay-and-Display basis. The claimant must prove, on the balance of probabilities, that they have a contract with the defendant, that the defendant has breached that contract, and caused the claimant a loss of the income resulting for non-payment. A claimant may also sustain a loss in administration costs where there has been a breach of contract.
2. Dealing with the contract, most cases that come before the small claims court are based on contract. Typically, there is very little by way of evidence. Typically both parties are litigants in person. For the sake of brevity, but also clarity, I will say that a parking sign, such as shown in my bundle, can be treated in two ways. One is that it is an invitation to park. Secondly, if that invitation is accepted, it becomes the terms that both people intended to be bound by. In old contract law still being taught, there must be an offer, acceptance and consideration. Those are not missing from this case. There is a fairly simple case put forward – and that is the Pay-and-Display sign is an invitation to park on specified terms and so it is at the heart of creation of the terms of the contract. By putting your car in that area you are accepting its terms. If I do not like the terms offered to me if I go to Kenwood House or whatever, I can park somewhere else. The reality is that this sign, even though I only have a photograph, is very clear.
3. The claimant relies, without having necessarily used the word, on the existence of an offer, the terms of which are on the sheet in front of me. It relies on the ability of the offeree to reject or accept its terms. I certainly find in this case that by parking in what is known as a Pay-and-Display carpark, where there are signs which provide the terms of the contract, there is both offer and acceptance. There was an intention to be legally bound by those terms. The fact that the defendant did not like them is neither here nor there. I said rather frivolously that even without glasses I could read or decipher what was alleged by the Respondent to be to be a poor copy.
4. The claimant must prove on the balance of probabilities that the defendant has breached the contract i.e. by not paying. I would say in simple terms, before I deal with the defence side, that pay and display is not a new-found idea. Parking in this form has applied for many, many years, and I would be amazed that somebody would not expect that there should be some payment, particularly with signs such as these. “Pay-and-Display” is a prominent heading. The claimant asserts that

there was an opportunity to reduce the penalty by paying by a specified time and if later then it increases to the amount showing on the papers that I have.

5. The Defendant appears to be saying he was not the driver of the vehicle however, I take into account what has been said on behalf of the driver which is that the ticket was displayed in the right place but blew away. I think only a driver would know that. We do not have any other witness to say, "I was the person driving this car and (inaudible).” On the balance of probabilities, I find that the defendant here today was, the keeper of the vehicle and its driver.
6. Dealing now with the defence itself, it is a technical defence and I am not going to go through it in detail. Some of what I have said seems to me to be sufficient to show that there was a contract. To deal with the Distance Selling provisions which is put forward by the defendant's lay representative as a defence, these were designed to protect those who make purchases via the internet or catalogues, for example. The Consumer Rights Act 2015 gives consumers the right to a cancellation period, for thinking time, and for rejection of goods. If one parks in a carpark which is Pay-and-Display one does not need to have the opportunity to cancel within 14 days. So it seems to me that the terms of this contract are not altered by virtue of those elements of the consumer protection law.

Accordingly, I find for the claimant.
