

**IN THE MIDDLESBROUGH COUNTY COURT**

No. A0JA7914

Russell Street,

Middlesbrough.

24<sup>th</sup> October 2014

Before:-

**DISTRICT JUDGE BAILEY**

**COMBINED PARKING SOLUTIONS**

Claimant

v

**HALL**

Respondent

=====  
**JUDGMENT**

(As approved)

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**DISTRICT JUDGE BAILEY:**

1. This is a claim brought by Combined Parking Solutions against Mr. Kevin Hall. I am asked to make a decision today about the enforceability of a parking charge levied against Mr. Hall in connection with now something which is said to have occurred on the 15<sup>th</sup> January 2013. The parking area in question is situated at the Sun Centre, in Sunnyfield Road, in Ormesby, Middlesbrough. I have very helpfully been provided with a bundle of documents that is relied upon by the claimant in connection with their claim. I have also had sight of the CCTV footage in respect of the date of the 15<sup>th</sup> January 2013. The claimant has quite rightly withdrawn that part of the claim relating to the alleged parking matter on the 25<sup>th</sup> January after there has been something of a technological difficulty. So I am only asked today to look at the matter arising from the 15<sup>th</sup> January 2013.
2. It is not disputed by Mr. Hall that he owned the vehicle with the registration number MX52 OMS. It is very clear from the CCTV footage that that vehicle was captured on the car park at the Sun Centre at Sunnyfield Road on the 15<sup>th</sup> January.
3. I have had provided to me at tab three what is effectively a smaller version of the signage that is erected at the site. The one in the bundle is pink, but I have also had shown to me what the actual signage would look like on a real scale. It is beyond question in my view that it is very clear. The terms of the notice are:

“Warning: contractual agreement. This private land is for the parking of motor vehicles, when complying with the terms below, for customers of the Sun Centre whilst using facilities. All vehicles must be parked in their allocated bays applicable and not causing an obstruction. The landowner and its agents hereby permit all persons parking in accordance with the above permission to park on this land in accordance with the above terms and conditions. The landowner and its agents also offer all members of the public who are not parking in accordance with the above terms the right to park on this land at a cost of £100 per vehicle per 24 hour period. This will be reduced to £60 if full payment is received by CPS within 14 days of issue. A parking charge notice will be issued with instructions on how to pay this amount. One charge per vehicle per 24 hour period can be issued.”

It goes on to say:

“To cover additional administration costs the charge will increase by £50 per charge plus Court and collection costs if the charge remains unpaid and debt recovery or legal action has commenced to recover the unpaid charge.”

I will go back to that part later in my Judgment. It continues:

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“Charges are in operation 24 hours per day, seven days a week. The registered keeper details will be requested from the DVLA if the charge remains unpaid after 28 days. Do not park or leave your vehicle here unless you understand and agree to all of the above terms and conditions.”

4. It is said to me by Mr. Perkins, who appears on behalf of the claimant today, that a core part of the contract is that the parking area is specifically for those customers using Sun Centre facilities and other members of the public can use the facilities when, and by accepting that contract, they also accept there is a payment to be made.
5. The first matter is was the signage noticeable and obvious to any reasonable driver? I had shown to me some photographs of the area in question and looking at matters from the Google map that has also been provided it is clear to me that I can see at least six signs on the map and indeed, having looked at the CCTV footage, it is clear that one of those was directly in front of the vehicle and it was parked when the occupant or driver of the vehicle on the day in question – I do not know whether it was Mr. Hall or not – appeared to have dropped some children at school. I think it is beyond dispute that the vehicle was in the car park for some ten minutes on that occasion.
6. Mr. Hall tells me today that he did see the signs on the occasions that he entered the car park and says that on the date that he attended he merely performed a u-turn. However, the claimant points out to me Schedule 4 of the Protection of Freedoms Act 2012 which provides that if the registered keeper of the vehicle fails to reasonably give the details of the person driving on the date in question then it becomes the registered keeper’s responsibility whether they were driving or not. That legislation was enacted following the doing away with clamping charges effectively.
7. The first thing that I have to decide is, is the signage clear and visible? In my view having seen the mock-up of the actual signage it is very clear. Mr. Hall says to me:

“I didn’t park obstructively. I didn’t do anything really that I shouldn’t have done. I wasn’t a hazard or anything.”
8. That is not really the decision that I have to make today. This is a matter of contract law. The claimant offered terms, the terms being:

“You can park there if you are a customer of the Sun Centre. If you are not a customer of the Sun Centre you can park here but it will cost you £100 but £60 if you pay within 14 days of issue.”
9. The terms of the contract to me are clear. It is very clear at the bottom that you should not park unless you understand and agree to all of the terms and conditions which in my view are clearly stated. It is not a matter for this Court to decide whether the amounts of charges are reasonable or otherwise. I simply have to determine has an offer been made and has it been accepted to

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establish a contact? In my view any defendant could have reasonably decided not to accept the conditions by choosing to park somewhere else. The incident that is relied upon for the avoidance of any doubt is the 15<sup>th</sup> January 2013 where the CCTV footage clearly establishes that the vehicle was in the car park area for some ten minutes. It is irrelevant in my view whether a vehicle is there for ten minutes or for 23 hours and 59 minutes. That is not the issue. The issue is an offer is made:

“Park here, but if you do these are the terms. You are either here because you an authorised customer of the Sun Centre. If you are not an authorised customer of the Sun Centre you may park here but the terms of our contract, if you choose to accept them, is that the payment for that is £100 or £60 if it is paid within 14 days.”

10. The claimant has adduced in their bundle letters that they say were sent to the defendant. The dates of those letters are 22<sup>nd</sup> January, 7<sup>th</sup> February, and there is a further letter which was sent, together with a certificate of posting, dated 27<sup>th</sup> March. Those letters in my view were extremely clear. They all refer to Schedule 4 of the Protection of Freedoms Act 2012. It sets out the repercussions if the claimant is not advised of who was driving on the occasion. In my view the claimant has fully complied with the requirements to serve the letters within the timescale set out by that legislation. Mr. Hall says to me:

“I didn’t receive those letters. I may have received the letter that has the certificate of posting.”

He cannot however be sure. The claimant is quite right. The claimant says to me:

“We do not need to prove that they were received. All the Civil Procedure Rules say is that first class postage is sufficient.”

They have gone the extra step and exhibited a certificate of posting to the letter dated 27<sup>th</sup> March.

11. Mr. Hall says to me that he wrote two letters to the claimant querying matters, but has not produced any of those letters to this Court today. Nor has he produced any documents at all in support of his case which in itself is a breach of the order of the Court when this case was allocated to the small claims track. He simply says to me today:

“I didn’t leave the car. I didn’t park up.”

He does not dispute however that on the CCTV footage that is his vehicle of which he is the registered keeper.

12. I am satisfied that a legitimate contract was entered into. Mr. Hall, or whoever was driving on the 15<sup>th</sup> January, did not need to park there if they were not

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willing to accept the terms and conditions. So I do find that a contract was established, That concludes my Judgment.

*AVTS REF: 6032/H4769*