

IN THE MEDWAY COUNTY COURT

No. 3QT91539

Anchorage House,

47-67 High Street, Chatham.

24th February 2014

Before:-

DISTRICT JUDGE WILKINSON

COMBINED PARKING SOLUTIONS

Claimant

v

JOANNA PETERSON

Respondent

=====
JUDGMENT

(As approved)
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DISTRICT JUDGE WILKINSON:

1. This is a small claims trial between Combined Parking Solutions Limited, the claimant, against Miss Joanna Peterson, the defendant, in respect of parking charges totalling a sum of £1,200. The claimant sets out in its claim form that it is a parking management company operating under a licence agreement with the owners or managers of the site in question. Sun Piere House CIC, are the owner/manager of a car parking area at Sun Wharf Car Park, Medway Street, Chatham, Kent ME4 4HF, which happens to be two car parks along from the Court building.
2. What is said is that the defendant has parked in the car park on in effect an unauthorised basis on the 1st April, 9th April, 17th April, 22nd April, 2nd May, 6th May and 28th May 2013. The claimant claims a sum of £1,200. That equates to eight times £100, being the parking charge, and eight times £50, being an administrative cost under the terms and conditions applicable to the parking. I will return to that in a moment.
3. The claimant company is in a position to bring this claim by virtue of its licence agreement with the owners/managers of the car park. I am satisfied that they are the correct claimant in this matter.
4. The defendant, Miss Peterson, has defended the claim. She states that she had moved temporarily into a flat with her partner, which flat she says is within the block of buildings of those working at Sun Wharf Car Park. There is no parking provision within the tenancy agreement which she can refer me to. At best I am told by the defendant that the landlord had agreed that parking was available if she or her partner, Mr. Moore, spoke with the parking attendant.
5. Miss Peterson defends the claim on the basis that between February and March of 2013 she was able to park in the car park for no charge. Then, when notices were erected in the car park, all of which she confirms are in situ and visible, she should not be liable for any parking charges because she maintains that such charges are unfair. Moreover, she submits she was never given the opportunity to park at a much reduced price, of some £3.50 per day. She also alleges that the claimant has broken many of the rules contained within the British Parking Association's Code of Conduct.
6. I have heard evidence on behalf of the claimant from Mr. Gransden and Miss Burgess who both run and operate the car parking site. I have heard evidence from Miss Peterson herself. I have heard some limited evidence in respect of this matter from her partner, Mr. Moore.
7. It is common ground between the claimant and the defendant that within the car park there are visible signs in red and white headed:

“Warning. Contractual Agreement. This private land is for the parking of motor vehicles when complying with the terms below and clearly displaying valid CPS permits only.”

The notice continues:

“The landowner and its agents hereby permit all valid CPS permit holders, who are clearly displaying their permits in the windscreen, and parked in their allocated bays, permission to park on this land in accordance with the terms of their permit.”

The notice continues:

“The landowner and its agents also offers all members of the public who have not parked in accordance with the terms of the permit, or have not clearly displayed in the windscreen a valid CPS permit in advance, the right to park on this land at a cost of £100 per vehicle per 24 hour period.”

It goes on to reduce that to a sum of £60 if payment is received within 14 days of issue.

8. It then states:

“A parking charge notice will be issued with instructions on how to pay the amount and that one charge per vehicle for a 24 hour period can be issued.”

There is also clearly written the fact that there is an additional administration cost of £50 per charge, plus Court collection costs, if the charge remains unpaid and debt recovery or legal action has commenced.

9. It goes on:

“Registered keeper details will be requested from DVLA if the charge remains unpaid after 28 days.”

The notice continues:

“Do not park or leave your vehicle here unless you understand and agree to all the above terms and conditions.”

10. The claimant’s case is that there are some 15 signs throughout the car park. Indeed the defendant’s own photograph demonstrates that the sign is visible as one first enters into the car park, together with a further sign which is still there today, headed “Sun Wharf Private Car Park for Customers and Clients Only”.

11. On the photograph that is before me there are at least two or three of the red and white signs (to which I have referred) visible to the parties.

12. Miss Peterson accepts that the notices were placed on her vehicle and that she parked the car in question on each of the eight occasions. Miss Peterson tells me that she has never received any of the notices to keepers sent to her last known address. Moreover, she states that she has no recollection of one of the parking notices, rather than being placed on the vehicle, being placed in her hands by the claimant’s witness.

13. In respect of the claimant, and its witnesses, both appeared to me to be very clear, calm and honest in the terms of the evidence that they gave to the Court. Indeed, in respect of Miss Burgess I accept that she had spoken to Miss Peterson on more than one occasion regarding the issue of parking within the car park and had drawn to her attention that she could obtain a form of permit, rather than having constant charging notices placed on her vehicle. Unfortunately it seems Miss Peterson has chosen not to avail herself of that offer and unfortunately now faces a large sum of money being levied, in effect, by the Court for failing to engage with the process and parking arrangements run by the claimant.
14. In respect of the legal status of the notices, the claimant has very purposefully anticipated and drawn the signage in the manner they have, in order to avoid the raft of case law regarding “penalty type” notices. It is clear from the signage in the car park that they offer parking services to either valid permit holders, or to members of the public, on the condition that they accept the arrangement: that they pay £100 per 24 hour period or produce a permit which has already been obtained in advance.
15. In my judgment this is a perfectly acceptable contractual agreement and one that was brought to the attention of Miss Peterson, not only at the point she enters into the car park, but on each and every occasion she chose to park in that car park. Indeed, the photographs demonstrate that at the point the charging notice is placed on her vehicle by the claimant she has indeed parked almost directly in front of the signage. There can be no question at all that she was unaware of the terms or did not understand the offer and acceptance which applied to her as much as it applied to anyone else.
16. In so far as there is a suggestion that the defendant has been discriminated against, although it is not pleaded, because she was offered a £3.50 parking charge, there is nothing to gainsay the evidence put forward by the claimant that that scheme was not up and running until June/July 2013. It therefore postdates the parking charges which are the subject of these Court proceedings. Therefore, I cannot accept that there is anything of any discriminatory nature in respect of the arrangements which are run by the claimant at the time in question.
17. I am also satisfied that the charges as set out by the claimant of £100 per day are not unfair in themselves given the various case law which is attached to the back of the leverarch bundle prepared by the claimant. It is a matter for the parties to decide whether they accept the terms and conditions which are the subject of the parking arrangement. If Miss Peterson did not want to pay £100 per day she had every opportunity to park elsewhere and failed to do so.
18. In respect of the £50 administration charge, the claimant has attempted to set out the breakdown of the £50 administration charge. It seems to me that such charge is reasonable, given the correspondence, notices, and other administrative costs, which result as soon as such notice is put on a vehicle and no payment is made.

19. As regards any breaches of the Parking Associations Code of Conduct I am not satisfied that the rather vague allegations made in that regard are proved. It is a voluntary code I am told and notwithstanding any breaches which may have existed in so far as the conduct of the claimant is concerned, it does not in this case impact upon the ability of the claimant to charge the sums it does in operating the car park. Such assertions certainly do not sway me that such charges should be dropped, or the claim is unenforceable.
20. Moreover, I do regard the allegations as being too vague and unsubstantiated. The claimant has already demonstrated that certainly in respect of the one of the defendant's allegations, unfortunately there is a considerable amount of paraphrasing of the code and is not a true reflection of what actually is set out in the Code of Conduct. I am afraid that parties must be far more specific if they intend on relying on such documentation.
21. In all of the circumstances the claimant has proved its claim on the balance of probabilities and the sum of £1,200 is due and payable. The usual order is that it is payable within 14 days otherwise a County Court Judgment will be registered. That is my Judgment.



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Signed: _____ (Christine Kriehn)

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