

Case No: B 00 NI 003

IN THE COUNTY COURT AT NEWPORT (I.O.W.)

1 Quay Street
Newport,
Isle of Wight, PO30 5YT

Date: Wednesday, 15th April, 2015

Before:

DISTRICT JUDGE GRAND

Between:

SOUTHERN HOUSING GROUP LIMITED

Claimant

- and -

MARK WISE

Defendant

MS. CORR, Solicitor appeared for the Claimant
THE DEFENDANT appeared In Person

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(Please note solicitor's name not cited in the court papers sent to transcribers)

DISTRICT JUDGE GRAND:

1. This is an application by Southern Housing Group Limited for the committal to prison of the Defendant, Mr. Mark Wise, for contempt of court. The application is dated 20th March 2015. It follows the arrest of Mr. Wise by police pursuant to the power of arrest under the order that was made against him on 16th January 2015. Mr. Wise was arrested on 17th March this year and brought before the court on 18th March this year when I released him from custody and gave directions leading to today's hearing including the direction for the Claimant to file an Application Notice.
2. The Application Notice sets out the order which was made on 16th January 2015 which it is alleged the Defendant, Mr. Wise, is in breach of. That order is that Mr. Wise was forbidden from

“using or threatening violence to any person or persons generally in or around Melton Hall, 43 Dover Street, Ryde, Isle of Wight; playing loud music at a level which caused nuisance or annoyance to any resident of Melton Hall, 43 Dover Street, Ryde on the Isle of Wight; shouting, swearing or making any noise at a level which caused nuisance or annoyance to any resident of Melton Hall, 43 Dover Street, Ryde, Isle of Wight; being verbally abusive to any resident of or visitor to Melton Hall, 43 Dover Street, Ryde, Isle of Wight, and from damaging any property belonging to any resident or visitor of Melton Hall, 43 Dover Street, Ryde, Isle of Wight.”
3. The Claimant has adduced six breaches which are set out in the Application Notice and which I will go through in a moment when I deal with my findings on the allegations. I have read the affidavit of Paula Rogers on behalf of the Claimant dated 23rd March 2015. I have not heard evidence from her today, although she has been available at court, because Mr. Wise had no questions for her, and her evidence was sworn. I then had the unsworn statement of Nick Roe of 18th March 2015 and the unsworn statement of Howard Marcus Derham dated 18th March 2015. Neither attended court today to give evidence. I then had the witness statement of Laura Joanne Ellis of 9 March 2015. She has attended court today and given evidence to confirm the contents of her statement as true. Mr. Wise had no questions for Ms. Ellis, although he did make an apology to her for his behaviour. I have heard evidence today from Mr. Wise, who has not made a statement, but he gave evidence on oath and told me his account of the incidents complained of. Essentially, although Mr. Wise disputes the detail of the sixth allegation, he acknowledges the allegations made and does not dispute the truth of them, but he suggested there is some mitigation in relation to them. I will therefore deal with each of the allegations.
4. The first is on that 6th February 2015 between 17.30 and 21.30 in the evening Mr. Wise played loud music at a level which caused nuisance or annoyance to a resident of Melton Hall in breach of paragraph 2 of the Order. Mr. Wise acknowledges that he did that, although he says he did not realise that it was causing a great deal of nuisance to his neighbours. I am satisfied that the Claimant has proved that beyond a reasonable doubt.
5. The second is that on 8th February 2015 at lunchtime and at 20.30 in the evening he played loud music at a level that caused nuisance or annoyance. Again that is admitted by Mr. Wise, although he suggested that at lunchtime he would not expect

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anybody else to be around and that the other occasion was early evening, rather than late at night. But I find that proved.

6. The third is that on 25th February 2015 he continually shouted “wanker” and that this was audible from outside his flat, This was contained in the evidence of Ms. Ellis. This is also admitted by Mr. Wise and I find it is proved.
7. On 27th February 2015 he is alleged to have shouted incoherently and repeatedly sworn and shouted “I’m going to kill you”, a breach of paragraph 3 of the Order. Again, that is admitted by Mr. Wise, and I find that it is proved.
8. On 5th March 2015 at 12.20 a.m., so in the middle of the night, he is alleged to have breached the order by screaming, “Get the fuck out of my flat” in breach of paragraphs 3 and 4 of the Order, again admitted by Mr. Wise and I find proved.
9. Finally, on 17th March 2015 he is alleged to have breached the order by threatening to shoot a resident at Melton Hall and subsequently discharging a firearm within a flat in Melton Hall causing damage in breach of paragraphs 1 and 5 of the Order. Mr. Wise does not admit threatening to shoot anybody and does not admit firing his BB gun (loaded with ball bearings and discharged by CO2) directly at a person. He does admit firing it at a full wine bottle, which broke, and at cider bottles. He does not admit discharging it out of a window, saying that when he pulled the trigger with the gun out of a window it was empty of pellets. The CO2 was making a noise but no projectiles were being fired. I find that it is proved that Mr. Wise caused damage by firing the gun and breaking a bottle of wine. I do not find beyond a reasonable doubt that he made any threat to shoot somebody else or that he discharged the firearm directly and intentionally at anybody.
10. So I find that all the allegations are proved, save that in respect of the sixth allegation it is proved in part.
11. Mr. Wise in the course of his evidence indicated that he was sorry for his behaviour and described himself in various terms as “a silly old man”. He has said in submissions to me that going to prison might do him a favour and might get him off the booze, and that he would rather go to prison than be homeless. It seems to me that there is an injunction order which was made on 16th January 2015 of which Mr. Wise was fully aware. He attended court following the making of that order and knew of the terms of it and of its continuation. I have found that within less than a month he was breaching the order by his behaviour. I am also aware that Mr. Wise has various issues in his life. His wife is in hospital with mental illness and he has problems himself with drink.
12. It seems to me that Mr. Wise does need to get the message that these orders are made to be complied with and that there are consequences of breach of the orders. I am satisfied that it is appropriate that there should be a custodial sentence in respect of the breaches, but that it should not be implemented immediately. What I am going to do is to make a custodial sentence for Mr. Wise’s committal to prison for twenty-eight days for each of the individual breaches, to run concurrently, but I am going to suspend that committal order on compliance with the injunction hereafter.

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13. If, Mr. Wise, the matter comes back before the court because it is alleged that you have breached the injunction again, then on top of any punishment you get for a further breach you will also serve the twenty-eight day sentence which I have provided for today. There is something else, Mr. Wise, that I think you should bear in mind. You were on the last occasion arrested and brought before the court in respect of a breach of the Order and I released you prior to today's hearing. If you are arrested and brought before the court again for an alleged breach of the order, as I have made a suspended committal order, it is much less likely that you will be released on bail. In fact pending any further hearing it is much more likely that you will be remanded in custody. So you will not be let off. I am imposing a punishment, but provided you behave properly and obey the terms of the injunction the punishment will not be put into effect. If you do breach the order again the punishment will be put into effect. If you get yourself arrested again then you can expect to be remanded pending any further hearing.
