

IN THE COUNTY COURT AT LINCOLN

Case No: K00LN200

360 High Street
Lincoln
LN5 7PS

Monday 4th September 2023

Before:

HIS HONOUR JUDGE SADIQ

Between:

SOUTH HOLLAND DISTRICT COUNCIL

-and-

MIA ROCK

Steven Taylor of Counsel appeared on behalf of the **Claimant**

Wayne Smith of Counsel appeared on behalf of the **Defendant**

Hearing date: 4 September 2023

JUDGMENT

This judgment was handed down at 4.00pm on 4 September 2023 by circulation to the parties or their representatives by email and by release to the National Archives.

His Honour Judge Sadiq:

Introduction

1. This is a committal hearing for contempt brought by the Claimant, a Local Authority, who have alleged breaches of the terms of an injunction granted on 6 June 2023 under Schedule 4 of the Anti-Social Behaviour Crime and Policing Act 2014. The Claimant was represented by Mr Taylor of Counsel. The Defendant was represented by Mr Smith of Counsel. The Defendant failed to attend the hearing and I refused an application to adjourn, with reasons. I also exercised my power to dispense with personal service of the injunction order retrospectively since I was satisfied that the Defendant had actual knowledge of the injunction terms before the date of the alleged breaches, pursuant to the decision of *Business Mortgage Finance 4 Plc v Hussain* [2022] EWCA Civ 1264, giving reasons for my decision.

Background

2. The background is as follows. The Claimant is the owner and landlord of social housing of properties at Severn Road, Nene Court and Wensum Close, Spalding, Lincolnshire (“the Properties”). At a previous committal hearing on 7 June 2023 before me which the Defendant did not attend, I sentenced the Defendant to an immediate term of imprisonment of 4 months for 16 proven breaches of an injunction granted on 16 March 2023 and extended on 11 April 2023. The Defendant was released from prison on 5 August 2023 having served that sentence.
3. On 6 June 2023, District Judge Armitage granted an injunction on notice to the Claimant against this Defendant and 4 other Defendants on similar terms to the previous injunction. The Defendants were forbidden from interalia at paragraph 1 - acting in a manner that causes or is likely to cause harassment, alarm and distress to Mr Trevor Shaw, Mr Charles Larkin-Jones, Mr Derek Wyatt or any other of the residents of Severn Road, Nene Court and Wensum Close, Spalding, Lincolnshire (as depicted on the map attached in red), whether at that location or anywhere in the town of Spalding; paragraph 2 - entering any part of Severn Road, Nene Court and Wensum Close, Spalding, Lincolnshire; paragraph 3 – using threats of violence, abusive words or behaviour towards any of the residents of Severn Road, Nene Court, Wensum close and Thames Road, Spalding, Lincolnshire whether in that location or elsewhere; paragraph 4 – engaging in any activity for the purpose of obtaining monies, or access to bank accounts of any of the residents of Wensum Close and Thames Road, Spalding, Lincolnshire; paragraph 5 - taking any property (including but not limited to money, cash cards, mobile phones, bungalow keys) belonging to Trevor Shaw, Charles Larkin-Jones, Derek Wyatt or any other resident of a property within Severn Road, Nene Court, Wensum Close and Thames Road, Spalding, Lincolnshire. The injunction was to last for 2 years namely until 5 June 2025 and a power of arrest was attached to paragraphs 1 to 5 in respect of the First and Second Defendants, Mia Rock being the Second Defendant who is hereinafter referred to as the Defendant. The Defendant was purportedly served with the injunction order on 17 June 2023.
4. At 1604 on 22 August 2023, the Defendant was arrested by the Police for alleged breaches of the injunction order and on the same day the Claimant made a contempt application against the Defendant. She was brought before me in custody on 23 August 2023. At that hearing, at which the Defendant was legally represented by Mrs Judith Brennan, Solicitor, she admitted entering the premises of Charles Larkin-Jones and Derek Wyatt in breach of paragraph 2 of the injunction order. I remanded the Defendant in custody for 6 days until 29 August 2023

since there were substantial grounds for believing that the Defendant would commit further breaches of the injunction order if released on bail. I also gave directions for the committal hearing, which was listed on 4 September 2023. The Defendant was personally served with a copy of the Claimant's committal application and evidence in support in custody at Court on 23 August 2023.

5. The Defendant failed to attend today's committal hearing without any good reason and I refused the application to adjourn the hearing made by the Defendant's Counsel, giving reasons.

The Schedule of Breaches and Evidence

6. Turning to the alleged breaches and evidence, the Claimant's Scott Schedule relies upon 6 free-standing breaches of the 6 June 2023 injunction order which all allegedly took place on 14 August 2023. In fact, there are 8 breaches set out the Scott Schedule. It is alleged that the Defendant breached paragraphs 1, 2, 4 & 5 of the injunction terms. The evidence filed in support of the contempt application consists of witness statements from the residents of Severn Road, Charles Larkin-Jones and Trevor Shaw, a resident of Thames Road, Derick Whyte, and statements from Police officers PC Richardson and DC Quinlan. All the witnesses gave oral evidence, save for the Police Officers.
7. I apply the criminal standard of proof to each alleged breach namely beyond reasonable doubt. I have to be satisfied to the criminal standard that the Defendant knew about the injunction terms and that she carried out acts which were in breach of the injunction terms. I remind myself that each allegation in support of the committal application has to be considered separately. I am satisfied that the Defendant has capacity. Capacity is presumed unless proven otherwise and there is no evidence before me that the Defendant lacks capacity.
8. I now turn to the specific breaches alleged against the Defendant. Where I say that I am satisfied that I am sure that an allegation has been proved, I mean that I am satisfied beyond reasonable doubt.
9. The first allegation is that at 0345am on 14 August 2023, the Defendant attended the address of Charles Larkin-Jones at Severn Road. I am satisfied so I am sure that the facts alleged in allegation 1 have been proven and that, as a result, the Defendant was in breach of paragraph 2 of the injunction term. The Defendant admitted this breach at the hearing on 23 August 2023. I also accept the evidence of Mr Larkin-Jones and in particular that the Defendant entered his property through his living room window without permission.
10. Allegation 2 is that in the early hours of 14 August 2023 the Defendant took possession of a bank card belonging to Mr Larkin-Jones and at 0452am withdrew £40 in cash for him. I am not satisfied so that I am sure that the facts alleged in allegation 2 have been proven and that, as a result, the Defendant was in breach of paragraph 4 of the injunction term. Paragraph 4 of the injunction term is limited to engaging in any activity for the purpose of obtaining monies, or access to bank accounts of any of the residents of Wensum Close and Thames Road. Mr Larkin-Jones was a resident of Severn Road and therefore the prohibited activity described in Paragraph 4 does not apply to him. Further, as confirmed in his witness statement Mr Larkin-

Jones gave the Defendant permission to take his bank card and withdraw £40 for him so “*I could buy a few bits and I am not able to easily get myself to the cash point.*” Accordingly, allegation 2 is not proven to the criminal standard.

11. Allegation 3 is that in the early hours of 14 August 2023 at 0435am, the Defendant withdrew £200 cash from Mr Larkin-Jones’ bank account. I am satisfied so that I am sure that the facts alleged in allegation 3 have been proven and that, as a result, the Defendant was in breach of paragraph 5 of the injunction term. Paragraph 5 of the injunction term covers taking any property including expressly money and cash belonging to Charles Larkin-Jones. I accept the evidence of Mr Larkin-Jones. His mini-statement shows that £200 was withdrawn on 14 August 2023 immediately after the Defendant withdrew £40. She did do without Mr Larkin-Jones’ knowledge and/or permission.
12. Allegation 4 is that on 14 August 2023 at 1.45pm the Defendant withdrew £20 cash from Mr Larkin-Jones’ account, having taken possession of his bank card from Trevor Shaw. It is also alleged that the Defendant at the same time took possession of cigarettes which had been purchased for Mr Larkin-Jones. I am satisfied so that I am sure that the facts alleged in allegation 4 regarding the withdrawal of £20 from Mr Larkin-Jones’ bank account has been proven and that, as a result, the Defendant was in breach of paragraph 4 of the injunction term. The taking of property including money and cash belonging to Charles Larkin-Jones is expressly covered by paragraph 5 of the injunction term. I accept the evidence of Mr Larkin-Jones and Mr Shaw. The mini-statement shows £20 was withdrawn from Mr Larkin-Jones account on 14 August 2023 at 1345. However, I am not satisfied so that I am sure that the facts alleged in allegation 4 regarding the taking of cigarettes purchased for Mr Larkin-Jones and that, as a result, the Defendant was in breach of paragraph 4 of the injunction term. Whilst paragraph 5 covers the taking of any property belonging to Charles Larkin-Jones, which includes the cigarettes, Mr Shaw states in his witness statement that he rang Mr Larkin-Jones who gave him permission to hand over the cigarettes to the Defendant.
13. Allegation 5 is that at about 8.50pm on 14 August 2023, the Defendant attended the address of Derek Wyatt on Thames Road. I am satisfied so I am sure that the facts alleged in allegation 5 have been proven and that, as a result, the Defendant was in breach of paragraph 2 of the injunction term. The Defendant admitted this breach at the hearing on 23 August 2023. I also accept the evidence of Mr Wyatt.
14. Finally, allegation 6 is that whilst at the address of Mr Wyatt at Thames Road, the Defendant asked him for money and when he refused she became aggressive, grabbed a pair of scissors in her hand and went back and forth and side to side with it. It is also alleged that the Defendant took £20 from Mr Wyatt under duress. I am satisfied so I am sure that the facts alleged in allegation 6 have been proven and that the Defendant was in breach of paragraph 1 of the injunction term. I accept the evidence of Mr Wyatt. The Defendant asked him for money as she needed some “stuff” namely drugs. When Mr Wyatt refused, the Defendant became aggressive, took a pair of scissors and started waving them around from side to side and back and forth. I accept Mr Wyatt’s evidence that he felt threatened and believed he was going to be stabbed by the Defendant. I reject Mr Smith, Counsel for the Defendant’s submission that the Defendant was using the scissors to clean her drugs pipe. That was not put to Mr Wyatt in

cross-examination and there is no evidence in support. I am also satisfied so I am sure that the Defendant took £20 from Mr Wyatt undress duress in breach of paragraph 1 of the injunction term. I accept the evidence of Mr Wyatt that he had no choice to give the £20 to the Defendant because of her threatening behaviour including her waving the scissors around.

15. Therefore for all those reasons, I find 6 breaches out of the 8 proven to the criminal standard namely beyond reasonable doubt.

Sentence

16. I now turn my attention to sentence. I remind myself of the recent guidance given by the Court of Appeal in the case of *Lovett & Ors v Wigan Borough Council* [2022] EWCA Civ 1631 regarding the proper approach to sentencing for breaches of anti-social behaviour injunctions made under the Anti-Social Behaviour, Crime and Policing Act. In summary:
17. First, the objective of sentencing is ensuring future compliance with the order, punishment and rehabilitation in that order. Second, the options that are available to the Court are an immediate order for committal to prison, a suspended order for committal to prison with conditions, adjourning consideration of penalty, a fine or no order. Third, the maximum sentence in the civil jurisdiction for contempt is two years' imprisonment. Custody should be reserved for the most serious breaches or for less serious cases where other methods of securing compliance has failed. A custodial sentence should never be imposed if an alternative course is sufficient and appropriate and any custodial sentence has to be the shortest necessary to achieve the Court's purpose. Four, although a suspended sentence is often used as the first means of securing compliance an alternative first option is to adjourn consideration of sentence. Finally, distinct consideration should be given to harm and culpability and the three-level scheme proposed by the report of the Civil Justice Council dated July 2020 entitled *Anti-social Behaviour and the Civil Courts*, is a valuable tool and the Civil Justice Council's report grid, at annex one of that report, is appropriate.
18. In terms of step one, in determining the seriousness of the breach that depends on my assessment of culpability and harm. Regarding culpability, I am satisfied on the evidence that the Defendant's behaviour falls within culpability band B since it involves a deliberate breach falling between A and C (Band A is for a very serious breach or persistent serious breaches, and Band C is for minor breaches). Regarding harm, I am satisfied that the Defendant's behaviour falls within category 1 of harm because Mr Wyatt perceived a threat of serious injury with the Defendant holding a pair of scissors and waving them around and he believed that he was going to be stabbed. Further, Mr Larkin-Jones is a vulnerable disabled person with one leg and limited movement and uses a wheelchair.
19. Step two is that having determined the categories of stage one, I should use the corresponding starting point to reach a preliminary penalty. The Civil Justice Council's report grid provides the starting point for a category 1 offence with culpability band B is 3 months imprisonment with a category range of adjourned consideration to 6 months. My preliminary penalty must then be adjusted to take into account of any aggravating or mitigating factors which would result in an upward or downwards adjustment. I must be careful not to double-count factors

namely take into account a factor which I have already taken into account in arriving at the preliminary penalty.

20. I take into account the following aggravating factors in this case: (i) the 6 proven breaches happened shortly after the Defendant's release from custody on 5 August 2023 having been sentenced to 4 months imprisonment for 16 breaches of an injunction on similar terms for an earlier contempt and these are the second committal proceedings brought against the Defendant; (ii) the breaches were deliberate and premeditated; (iii) the vulnerability of one of the victims. Mr Larkin-Jones is disabled with one leg and uses a wheelchair. Regarding mitigating factors, I take account of (i) the early admission of some of the breaches namely entering the resident's properties in breach of paragraph 2 of the injunction term. In terms of personal mitigation, the Defendant alleges she is pregnant but no medical evidence has been filed in support. There is some information that she has drug addiction problems.
21. In the circumstances, for breaches 1, 3, 4 and 5, the appropriate period of imprisonment is 5 months. Breach 6 involved the perceived threat of violence with the Defendant waving around a pair of scissors in a threatening manner and taking £20 from Mr Wyatt under duress. For this breach, the appropriate period of imprisonment is 6 months. All the sentences are to run concurrently which therefore means a total period of imprisonment of 6 months.
22. Step three is to reduce the penalty for any admissions made. The Defendant admitted two of the breaches namely attending the properties of the residents Mr Larkin-Jones and Mr Wyatt. I give her some credit for that, but she denied the other more serious breaches. In the circumstances, I reduce the 6 month sentence of imprisonment by 1 month for these early admissions to 5 months.
23. I must also give credit for the time the Defendant has spent on remand. The remand period is 6 days (from 23 August 2023 to 29 August 2023). Because of the effect of section 258 of the Civil Justice Act 2003, I must double that period to 12 days and deduct that from the period of 5 months. The result is an effective custodial sentence of 4 months and 18 days.
24. Step four is that I must consider whether this sentence can properly be suspended or to adjourn consideration of sentence. I have concluded that an appropriate punishment can only be achieved by an immediate custodial sentence in the circumstances of this case. The Defendant deliberately breached the injunction shortly after her release from prison for an earlier similar contempt. A suspended sentence or to adjourn consideration of sentence would not do justice because only an immediate custodial sentence would properly mark the seriousness of the contempts which have been proven, the absence of any significant mitigation and the absence of any likelihood that a suspended sentence or an adjourned consideration of sentence would alter the Defendant's behaviour.

25. For all these reasons, the appropriate punishment can only be achieved by an immediate custodial sentence. Accordingly, the Defendant will be sentenced to an immediate term of imprisonment for 4 months and 18 days. That, in my view, in the circumstances of this case and the breaches, is the shortest necessary custodial sentence to achieve the Court's purpose. The Defendant will be entitled to be released from prison having served half of that sentence. The appeal court is the High Court. Any appeal must be commenced within 21 days of the order reflecting this judgment. The Defendant has the right to purge her contempt.

