



Neutral Citation Number: [2024] EWHC 3477 (Admiralty)

Case No: AD-2024-000022

IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES
KING'S BENCH DIVISION
ADMIRALTY COURT

Rolls Building
Fetter Lane
London
EC4A 1NL

Date: 11 December 2024

Before:

MR JUSTICE ANDREW BAKER

Between:

PREMIER MARINAS LIMITED
- and -
MR NICK ROBERTS

Claimant

Defendant

MR TOM HALL (instructed by **Bargate Murray Solicitors**) appeared on behalf of the **Claimant**

JUDGMENT
(Approved Transcript)

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MR JUSTICE ANDREW BAKER:

1. This is a committal application brought by an application notice in the appropriate form dated 11 July 2024, to find the defendant in contempt of court and, either today or on a subsequent occasion, to have him sentenced for that contempt.
2. The application is brought by the claimant, Premier Marinas Ltd, arising out of what was originally a relatively low value failure by the defendant, Mr Nick Roberts, to keep up to date with berthing fees owed to the claimant pursuant to the licence he had to occupy space at the claimant's Brighton Marina for the purpose of mooring his small motor vessel called *BRIGHTHELM*.
3. Pursuant to the substantive proceedings brought by the claimant to enforce the underlying debt and obtain other relief, there was a hearing before Admiralty Registrar Davison, conducted remotely via Microsoft Teams on 19 June 2024.
4. The relief sought by the proceedings and at that hearing included relief by way of mandatory injunction requiring the defendant to remove the *BRIGHTHELM* from the marina. The claimant's entitlement in principle to relief of that kind was founded, as it said, upon its lawful termination of the licence agreement with the defendant on account of his by then persistent non-payment.
5. The hearing was a hearing of the claimant's application brought by application notice dated 9 May 2024 for judgment in default of any acknowledgment of service or defence. It was supported by a first witness statement of Mr Elliot Bishop of the claimant's solicitors dated 9 May 2024.
6. Having heard from counsel for the claimant and the defendant, who attended in person, as I have indicated all over Microsoft Teams on a hearing conducted remotely, Admiralty Registrar Davison was persuaded that the claims were well-founded and judgment should accordingly be entered. His order dated 19 June 2024 (and sealed on 20 June 2024) therefore entered judgment in favour of the claimant, at paragraph 3, for a debt in the amount of £4,817.98 (inclusive of an award of interest under that order), and under paragraph 4 for costs, summarily assessed at £4,500.
7. Of direct relevance for today, at paragraph 2, judgment was entered by way of final mandatory injunction in these terms: "*The defendant is required to remove his vessel, known as the "BRIGHTHELM", from the Claimant's marina at Brighton Marina, located at West Jetty, Brighton, East Sussex, BN2 5UP by 4pm on 10 July 2024.*"
8. Mr Hall, who appears for the claimant (as he has done throughout) has confirmed to the court, as I would have inferred in any event, that the deadline for compliance of 10 July 2024 was set by Admiralty Registrar Davison taking into account any submissions that the defendant wished to put forward as to any practical difficulties or time required for him to achieve the removal of the vessel.

9. The defendant has not appeared today and I have already indicated, giving brief reasons for it, my conclusion that it is appropriate to proceed in his absence to deal with the question of whether he is in contempt of court.
10. On the evidence of Mr Bishop's affidavit dated 11 July 2024, the exhibit to that affidavit and Mr Bishop's supplementary witness statement dated 15 November 2024 and the exhibit to that statement, together with copies of more recent correspondence, I am quite sure that, firstly, Admiralty Registrar Davison's order dated 19 June 2024 was duly served on the defendant and, although this may not be a necessary finding, the defendant in fact became as a result well aware of the existence and terms of that order and understood full well that in accordance with the penal notice on the front of the order he put himself at risk of being in contempt of court with sanctions (potentially up to and including imprisonment) if he did not remove the *BRIGHTHELM* from the Brighton Marina by the stated deadline. Secondly, I am sure on that evidence that the defendant failed, and thereafter has continued to fail, to remove the *BRIGHTHELM* from the marina. Thirdly, I am sure on the evidence that he is, and has been throughout the material period since early July until today, well aware that he has not removed the *BRIGHTHELM*.
11. His engagement with the proceedings following Admiralty Registrar Davison's order has been sporadic and minimal. It has included on two occasions an informal suggestion that he was making efforts to comply, or intended to comply, but wished to have more time for compliance. The first such occasion was in an email from him on 8 July 2024 suggesting that he had arrangements in place that he hoped would come to fruition within a fortnight of that date (that would have been 22 July) to secure the removal of the *BRIGHTHELM* and suggesting that he would wish to have that additional time to comply.
12. Understandably, and not unreasonably against the background and the history of the matter generally, Mr Bishop on behalf of the claimant was not in a position sensibly to consent to anything and did not do so in his brief response to that request; but the defendant then made no application to the court for further time.
13. The second occasion of some element of engagement was in early August 2024 when, on the defendant's behalf, Mr Mukhtar Ahmed of the Royal British Legion, giving the defendant it would seem some assistance in relation to dealing with these matters, emailed Mr Bishop and the Admiralty Registrar's email address indicating that the defendant was claiming not to have had access to emails for two weeks and to be unaware of any contempt application and suggesting that the *BRIGHTHELM* was then undergoing repairs such that the defendant hoped she would be offsite, as Mr Ahmed said, as soon as possible.
14. The contempt application had in fact been served personally on the defendant, as is required in the absence of personal service being dispensed with by the rules governing contempt applications, on 12 July. There is no reason to doubt Mr Ahmed's integrity in reporting what he was informed by the defendant, but there is every reason to suppose that the defendant may not have been telling Mr Ahmed the truth about his awareness of this contempt application.

15. The contempt application was first before the court for hearing on 15 November, on the morning of which the defendant contacted the Admiralty and Commercial Court Listing Office claiming to have misunderstood that the hearing would be conducted remotely. There was initial correspondence in what is currently the normal form from the Listing Office which will have suggested that, unless notified otherwise, the parties should take it that the hearing would be a remote hearing. However the parties were notified otherwise and I have been satisfied by the additional evidence provided at today's hearing confirming what I was told by Mr Hall on instructions on the previous occasion that in fact the defendant had been made well aware of the changed circumstance, communicated in addition by my Clerk, namely that the hearing was in person.
16. As it is, I adjourned the hearing on that occasion in order to give the defendant the benefit of any possible doubt as to whether he had managed nonetheless to misunderstand that he was not required to be here in person, and every possible step has been taken to ensure that he will be aware that he should have attended today to deal with the matter in person if he did not want us to proceed in his absence.
17. In the circumstances, I am entirely satisfied so as to be sure, and I am sure, that the defendant is guilty of contempt of court by failure to obey the order of Admiralty Registrar Davison dated 19 June 2024 by which he was ordered to remove the *BRIGHTHELM* from Brighton Marina by 4 pm on 10 July 2024. He is guilty in full knowledge of that order of failing to remove the *BRIGHTHELM* from the marina by that deadline or at all to date.
18. In line with the provisional indication I gave earlier this morning, I am minded to adjourn the matter for sentence. What I make clear is that if even now (that is to say between today and the date of any sentencing hearing) the defendant were finally to comply belatedly with the order of the Admiralty Registrar by removing the *BRIGHTHELM*, or in some other way to achieve an amicable resolution with the claimant relating to the failure to remove the vessel and the underlying debt position with the claimant, that would be by nature a mitigating factor to take into account in relation to sentence.
19. But by parity of reasoning, if the defendant simply continues to fail to obey the original order, and fails to engage with the process, that is likely to amount to an aggravating factor when considering sentence.
20. We are close to the Christmas vacation and I am away after the end of this week on leave and then to conduct a short Crown Court trial on the Midlands Circuit at the start of next term. In the circumstances, and although in a perfect world I would have preferred to order the sentencing hearing sooner after today than this, the first date I would be available to take a sentencing hearing would be Tuesday 4 February. Subject to any observations from Mr Hall as to his own position or on instructions that of the claimant's solicitors, I would be minded to order a sentencing hearing to take place before me on Tuesday 4 February at 10 am with a time estimate of two hours. That would be listed to be heard at the Royal Courts of Justice on the Strand, not here in the Rolls Building, so that use can be made of a court with a dock and other facilities for the transporting of the defendant into custody if that is the end result of the sentencing process.

21. As discussed with Mr Hall in relation to the drafting of the order, possibly in any event but particularly given the defendant's general lack of engagement which is threatening to reach the point where he might be said with force not only to be in contempt of court, as I have formally declared him to be this morning, but to be treating the process generally with a degree of contempt, I agree that it is appropriate to include a specific direction anticipating the issue of a bench warrant if there continues to be doubt as to the defendant's attendance on 4 February.
22. What I propose therefore to order, subject again to checking with Mr Hall as to whether the timeline I am now proposing is thought to give rise to any difficulty, is that unless the defendant confirms he will attend the sentencing hearing by 4.30 pm on Friday 24 January, or if he at any time states that he will not or may not attend that hearing, that is to say the sentencing hearing, then the court is likely to issue a bench warrant to secure his attendance at the sentencing hearing pursuant to CPR 81.7(2).
23. The order in the normal way will recite the existence of the defendant's right in principle to appeal without permission to the Court of Appeal and the fact that there will be a transcript of this judgment to be served on the defendant by the claimant's solicitors and to be published on the judiciary's website once it is available.
