

Neutral Citation No. [2014] NIQB 96

Ref: MOR9356

*Judgment: approved by the Court for handing down
(subject to editorial corrections)**

Delivered: 10/07/2014

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

QUEEN'S BENCH DIVISION

Between:

OAKLEE HOMES GROUP LIMITED

Proposed Respondent;

-and-

JOHN WILLIAM BARR

Applicant.

Morgan LCJ

[1] This is an application to the High Court to state a case on a point of law for the opinion of the Court of Appeal pursuant to Article 62 of the County Courts (Northern Ireland) Order 1980 (the 1980 Order).

[2] The applicant was a tenant of premises at 10 Hartington Court, 56/64 Dublin Road, Belfast owned by the proposed respondent. The tenancy agreement commenced on 23 January 2012 and was terminated by the proposed respondent on 26 November 2012 on the basis that the tenant had been guilty of conduct which was a nuisance or annoyance to neighbours. The tenant was a secure tenant but termination on this ground was available by virtue of the provisions of ground 2 of Part 1 of Schedule 3 to the Housing (Northern Ireland) Order 1983.

[3] On 11 December 2012 the proposed respondent instituted proceedings for possession. The grounding affidavit set out a series of antisocial behaviour activities by the applicant at the premises between 7 March 2012 and 7 December 2012. On

25 April 2013 at a contested hearing District Judge Brownlie made an order for possession in favour of the proposed respondent.

[4] By Notice of Appeal dated 20 May 2013 the applicant appealed that decision to the High Court. The case was listed for review on 14 June 2013. On 13 June 2013 the applicant wrote to Gillen J indicating that due to illness he would not be present for the review but alleging that he had been subject to sectarian abuse at the premises and enclosing a number of statements supporting that allegation. He alleged that some of the evidence given in relation to his activities was perjured.

[5] The appeal was adjourned for review on 26 September 2013. The order made on 14 June 2013 directed that the appeal should not be further adjourned on medical grounds without a medical certificate from the party seeking the adjournment. There was no appearance by the applicant at the review on 26 September 2013 and an Order was made that a medical certificate explaining his non-attendance should be provided by 3 October 2013 and the matter reviewed on 10 October 2013.

[6] On 9 October 2013 the applicant telephoned the Central Office to indicate that a letter from his doctor was not covered by the NHS and he would incur a fee for such a letter. He was not, therefore, going to pursue it. He had no e-mail access and was too unwell to hand deliver a letter personally. He indicated he would not be in attendance on the following day. On 10 October 2013 Gillen J give directions in relation to the preparation of a booklet of appeal and exchange of materials and listed the case for hearing on 28 November 2013.

[7] On 28 November 2013 the applicant did not appear and I dismissed the appeal and affirmed the order below. By notice dated 9 January 2014 and stamped on 13 January 2014 the applicant applied for leave to appeal to the Court of Appeal and for an extension of time. Such an appeal can only proceed by way of case stated pursuant to Article 62 of the 1980 Order. By virtue of Order 62 Rule 5 of the Rules of the Court of Judicature a party seeking to appeal by way of case stated to the Court of Appeal must lodge a requisition specifying the point of law on which the appeal is to be based within 24 days of the decision about which complaint is made. The notice lodged and stamped on 13 January 2014 did not identify any point of law.

[8] The applicant received a letter dated 15 January 2014 from the court asking him to set out the point of law relevant to his request by 29 January 2014. It was indicated that if he failed to do so his application would be refused. On 28 January 2014 he wrote to complain that the demand was unreasonable because it was impractical. He pointed to the problems he had with stress and the effect on his mental and physical health. He also noted that he could not obtain legal representation because of concerns that he may not qualify for legal aid.

[9] The application was then listed for hearing on 3 March 2014. The applicant did not attend. The application was adjourned until 18 March 2014. On that date an

Order was made that unless the applicant produced to the court an explanation for his non-attendance and give an indication of the point of law which he wished to have considered by the Court of Appeal by close of business on 28 April 2014 the application should be struck out.

[10] On 28 April 2014 the applicant once again wrote to the court complaining that the system of justice was hostile to personal litigants. He stated that he had evidence which challenged the material submitted on behalf of the proposed respondent. The correspondence did not set out any point of law for the consideration of the Court of Appeal.

[11] This application, even on the most generous construction, has not set out any point of law and is also out of time. In the absence of any point of law there is no basis upon which time could be extended and the application to extend time is, therefore, dismissed. In those circumstances my Order of 28 November 2013 stands.