



Memo

If you have any questions concerning this memo please telephone the number below

To: Stephen Dilley

cc: Laura Peto

From: Denise Gammack

Ref: DEG1\SJR2\348035.134

Direct:

GRO

Date: 29 September 2005

Claim against Mr Lee Castleton

I know that we have already had a brief discussion about this matter, and I have passed you the files already. I did say I would also let you have a memo outlining the background issues, which I set out below.

If you need any more general information about these sorts of claims that CMS are dealing with I am sure that Laura will be able to help you. You may also be able to get some assistance from your relatives!

I set out the main issues below:

Background

CMS have been passed bulk instructions from Royal Mail (via Stephen Lister) to prosecute sub-postmasters/mistresses for losses that Royal Mail say occurred during the course of their employment. Indeed, the losses normally lead to their dismissal.

Traditionally, Royal Mail's approach to this has been to prosecute the former employee for theft and to get them convicted, to make a public showing of the fact that these losses will not be tolerated. However, the focus now is very much on recovering the money rather than obtaining a conviction.

The contracts that these employees sign have a clause in them which effectively states that after their employment has ended, the former employee is liable to repay Royal Mail any losses found to have arisen at the sub-post office. In the first instance Royal Mail tries to recover these from the former employee direct and when that correspondence fails, the matter comes to us to issue proceedings.

That is what has happened in relation to Mr Castleton.

Mr Castleton's Case

Mr Castleton was dismissed from his position at the Marine Drive sub-post office in Bridlington, Yorkshire when it was found that his sub-post office had suffered losses in excess of £25,000. Initially Mr Castleton considered employment tribunal proceedings for unfair dismissal but decided against it.

Initially, Royal Mail did try to recover this loss from him direct but, as you will see from the correspondence, he has always denied that any loss exists at all. Mr Castleton's position is that the "loss" has been created by errors within the computer system that the sub-postmasters/mistresses use to operate the sub-post office.

This computer system is called Horizon. Royal Mail are in the process of removing this system so that a new, more streamlined one, can be installed instead. However, for the purposes of this case Horizon is the relevant system.

Mr Castleton insists that if he can be provided with copies of records showing the daily transactions made on the Horizon system while he was at the sub-post office, he will be able to use them to show that the "loss" is a fiction created by errors in the system. Mr Castleton's solicitor claims that his client currently has only one week's worth of such print outs, and has already sent them to an expert.

The expert has been instructed to prepare a report to confirm Mr Castleton's case. We are going to be sent this on a without prejudice basis once it is finalised and I expect it to arrive shortly.

Our client is aware that the temporary sub-post office staff that replaced Mr Castleton suffered no problems at all with the Horizon computer in question.

Disclosure

Clearly, disclosure of the computer records maintained while he was at the sub-post office and an examination of the system itself are crucial in this case. However, disclosure has also been a particular problem in this matter. Mr Castleton has repeatedly requested copies of documents that were taken away after an investigation at the sub-post office was completed and insists that these will include the daily records he needs. We have asked Royal Mail repeatedly to disclose everything that they can find but this turns out to be more difficult than one might anticipate.

When Royal Mail investigate sub-postmasters/mistresses for losses, they have an investigation team which comprises various people in several different offices. This means that paperwork gets spread out between them, and sometimes gets lost, and even sometimes gets destroyed. In addition Royal Mail put a lot of documents into a storage system and to get items out of it they have to pay the storage facility to do that. Royal Mail do not like doing this, at all, and tries to avoid it.

This issue was raised at a training day that I recently attended where we emphasised to Royal Mail the importance of disclosure and they acknowledge that they need to get themselves re-organised in this respect. You may wish to have a look at a case called *Post Office v Mehida* which does deal specifically with this issue.

The most recent correspondence that I have had from Cheryl Woodward at our client gives me the impression that they may well want to pull out of these proceedings. They say that they cannot locate anymore relevant documents and they want to see the other side's expert report. I have told them that we will send it when it arrives and that in the meantime we need to deal with the ongoing Court proceedings.

The Court Proceedings

Proceedings were commenced in the Scarborough County Court. Mr Castleton subsequently filed a Defence and Counterclaim for losses incurred as a result of losing his employment which should not have happened because there is no loss. This Counterclaim is not quantified but is limited to £250,000. As a result of this the claim has now been transferred by the Court to the Queens Bench Division in London.

The matter has been allocated to a Master Fontaine, as yet no further directions have been received. Royal Mail prefer to use particular barristers in relation to these matters and for this one I have lined up David Craig at Devereux Chambers. He was recommended to me by Mandy Talbot (who I know you have already met) and his clerk confirms his general availability although I have not yet sent him any papers. David Craig was involved in the *Mehida* case above and so is well aware of the problems relating to disclosure.

Contacts

Our main client contact in this matter is a debt recovery investigator at the Chesterfield office named Cheryl Woodward. I normally contact her by e-mail on Cheryl.woodward@[REDACTED] GRO

Mandy Talbot is aware that this matter has been transferred to London and has requested that she be copied in to all further e-mails. In addition she needs to be sent a scanned copy of the expert report, when that comes in.

Mandy tells me that in previous cases where Defendants have alleged problems with the computer system, reference has been made to the amount of telephone calls recording complaints made to the service desk and where there have been none such defences have failed. I know that in this case we have such records on the file from Fujitsu, who used to operate the Horizon system for the client.

Mandy has also given me the contact details for a Keith Baines at Fujitsu who may need to be called on to provide a witness statement. Mandy has indicated that as Fujitsu no longer operate the Horizon system he may not be as co-operative as we would like, nevertheless I do have his contact details, which are:

Keith Baines
Post Office Limited
Second Floor
Calthorpe House
15-20 Phoenix Place
London
WC1X 0DG

Telephone: ([REDACTED])
Mobile: [REDACTED]
E-mail: keithkbaines@ [REDACTED]

Next Steps

I should be grateful if you would assume conduct of this matter and continue to progress it further. I am sure that Laura will be able to assist you where necessary with preparation of documents, etc. I will let Cheryl know that I am leaving and I will give her your contact details instead.

If you have any further queries before I leave please let me know.

While I have been assisting CMS with this matter they have continued to prepare the bills for me, on a monthly basis. I will leave it to you to decide whether or not that can continue!

Regards.

Denise Gammack
Solicitor