

Bond Pearce

Personal attendance

Client: Royal Mail Group PLC Sub Postmaster Litigation

Matter: Mr Lee Castleton

Matter no: 348035.134

Attending: Counsel, Richard Morgan and Tom Beezer, Partner Bond Pearce

Name: Stephen Dilley

Location: Counsel's Chambers in London

Date: 11 September 2006

Start time:

Units:

Had a conference with Counsel, Richard Morgan and Tom Beezer, Partner Bond Pearce at Counsel's Chambers in London.

The main purpose of the conference was to meet four of the key witnesses to go over their draft Statements with them.

First of all meeting Cath Oglesby and discussing the following points:-

1. First of all Cath said she had yesterday replied to me in response to each of the questions I had raised in the latest draft of her second Witness Statement.
2. She confirmed that the building was used as a Post Office before Mr Castleton run it. She thought there was a £20 tolerance each way for each week you could bounce within. If you were £250 or more the sub-postmaster was supposed to informed the Post Office.
3. She confirmed that the equipment was not changed when Castleton took over.
4. It Horizon didn't work at the start of the day, you can instead keep a manual record and enter transactions separately.
5. We discussed paragraph 7 of her Witness Statement and ultimately she decided she wants to caveat that to say so far as she could recall every transaction apart from stock transactions has one or sometimes more corresponding physical document.
6. Paragraph 8. She wants to caveat this to say as far as she could remember.
7. Paragraph 9. After the words "this Postmaster also has to balance" we should insert the words "the physical cash and stock against what is recorded on". I am also to find out where it says that the Postmaster has had to sign a cash account to certify that it is inaccurate. I think this may be in the Operations Manual but will just double check. I may have to tone this down to say of course he should not sign the cash accounts if they are inaccurate however I do need to check out if there is anywhere where it will say that he has certify it first. They might not necessarily need to turn it down.
8. In paragraph 8 Cath said if, when the Postmasters are checking the counterfoils at the end of the day they noticed that what was on the system was wrong, they could reverse it and reconcile with what is on Horizon.

9. Paragraph 11. We need to go on to say what is being balanced ie. the physical cash and stock as against what is on Horizon.
10. In relation to paragraph 10 Cath clarified that sometimes the Girobank customer deposits are cashing cheques and sometimes the sub-postmaster puts both the cash and cheques in the total of the cash instead of just the cash total of the cash.
11. Paragraph 13. Cath wants to say referring back to her notes she is reminded that.
12. Paragraph 14. Cath Oglesby is going to have a look at this and amend. She said that basically if the snapshot does not reflect documentation that is to hand, it should prompt the postmaster to do further investigations. Horizon is a calculator and you are reliant upon the imputer to get it accurate. The balancing up is a quick guide to see how close you are. If you are not near, it should start ringing alarm bells. She confirmed that a sub-postmaster can change data after it is entered into the system, for example,
13. In relation to paragraph 16 after the words "around this time" she wants to add the words "at which time I would have looked at the cash account". By the words "and he placed the sum" she wants to say "that he made a book entry which transferred the loss".
14. Paragraph 18. The usual possibilities are the ways a postmaster could incur shortfalls and she wanted to clarify that to say that they had previously discussed them.
15. At the end of paragraph 17 she wants to add the words "as far as I am aware there was nothing untoward".
16. Paragraph 19. We are going to move the end of the paragraph up to the start of the paragraph as there are two discrete points here. One is to computer processors not working and the other is a remming entry. I will separate that into two paragraphs.
17. Paragraph 20. We are to add the words "at some point in or around March 2004 I looked at the cash account for the weeks to and noted that...".
18. Paragraph 23. This was the first date that any audit could take place due to the work played of internal audit team.
19. Paragraph 26 we are to add the words "she thought that" before the words "this was because her assistants had left something in the stack".
20. Paragraph 29. We are to mention that after Mr Castleton was suspended, the shop was still operating.
21. Paragraph 32. We are to expand this to refer to the request for an interview. We are also to summarise reasons for termination.
22. Paragraph 34. This was a Girobank error. Those would not be reported because it was a small error.
23. Paragraph 38. We are to say that the letter was written on Cath Oglesby's behalf.
24. Paragraph 42. We are to say that he was dismissed for the reasons specified in her letter which were ...
25. Paragraph 46. I am to insert the details of when the cash account week 46 was a weekend ie. the date.
26. Paragraphs a, b and c. We remember to say however the cash declaration shows that that the branch had cash effects ie. say £7,000 more than Horizon thought it had and we should also amend to say the main drive branch should have needed £92,000 cash in its till.

27. Paragraph 54. We will delete the words "due to knowledge and explained losses that he had failed to make good in breach of his contract".
28. Paragraph 57. We will delete. This will instead go into statement.

Meeting with John Jones.

Counsel explained to John (as he did to all the witnesses who were in that day) that their Witness Statement was theirs and they must be entirely happy with it and they should feel free to change anything, even if something came to mind after they had signed it (although we would obviously try to get the signed versions as accurate as possible). Counsel also explained that we would need to be able to explain that there was a computer system and the Post Office procedures some others would know nothing about it and so we had to put things in very simple terms.

Going over John Jones' Witness Statement as follows:-

1. He has now been a manager for three years.
2. Paragraph 3. The cash account declaration showed a sequence of shortgages. I have got to re-look at the figure of £27,000 and £115.83. We should also say in that while he was responsible for making good all losses etc. He also noticed that there were a few error notices than an average branch ie. transactions that Castleton and his staff were performing were relatively higher than accurate level for that sub-postmaster level of experience.
3. Paragraph 4. John explains that the appeal was effectively a re-hearing of the entire case. We are to move the start of paragraph 6 to paragraph 15. I would also add a caveat that John confirms that these notes are an accurate account.
4. John explaining that the first thing he would do was get a transaction header sheet (I will need to check this has been disclosed) from the Contract Manager.
5. Paragraph 7. We are to delete the words "that as a direct result" down to "policy transaction" because it is repeated.
6. In paragraph 8 we are to insert the words "at the time for weeks 42 to 51" after the words "I noted that". I will also give John the information to show that the figure of £1,256.88 has since been reversed.
7. John explained at paragraph 9 that what he was doing was try to recreate his best he could each week to ascertain whether they were real losses. As part of his analysis he looks at cash flow. It is a common trend in theft cases that the individual orders more cash than they need and that leads up to the losses.

He was confident that it wasn't a book keeping error because it was shown up as an error because of the traders. Each branch has a unique reference code. We should clarify paragraph 9 to say that what John examined was every entry on the cash account.
8. Paragraph 10. We should insert the words "for this period or which might otherwise give rise to discrepancies" after the words "average value".
9. Paragraph 11. We should add that he would have received a note of the interview of the dismissal hearing and that was why he was focused on a particular issue. He e-mailed Cath Oglesby to ask what advice she has taken in and would have followed that up in a telephone call. He does no longer have a note of that e-mail. I will need to check that with Cath Oglesby whether she has that.
10. Paragraph 12. He then conducted daily transaction allowances and we should add that he had got it from the information on file – snapshots that Castleton produced himself. We need to clarify some of the wording (and I will see my manuscript amendments to the Statement).

11. Paragraph 13. I will need treat the wording in the final sentence to qualify it so that what we are saying is that taking the snapshots and aggregating them with the deposits from the customer, couldn't appear that the deposits were aggregated.
12. Paragraph 15. We will need to explain why Mr Castleton had been dismissed and what his case was ie. that the losses were computer errors.
13. Paragraph 16. We should say that Mr Wiseman is intended to provide a high standard of security.
14. Paragraph 19. John said that we need to change the cash account number 49 to 51 and that it is the week ending 17 March. We need to make consequential amendments to paragraph 20 in that respect.
15. Paragraph 21. We should say that for clarification he should vow that during the period it appears from the weekly cash account and that
16. Paragraph 22. We should treat or demonstrate to suggest.
17. Paragraph 23. We should say after the words "they need to order extra cash" we should change that to "more than £265,000 over the weeks 42 to 51".
18. Paragraph 25. John changes to go back to transaction processing and say that there are no other outstanding error notices on the system.
19. At the end of paragraph 23 I should say what the total is at that point.
20. Paragraph 27. We will delete the first sentence.

Meeting with Andrew Wise.

Andrew explained that he remembered looking at the cash account, the National Lottery owners and the large cheque to basically one of the MBSE calls at the end of January in respect of losses that Sarah Pennington took. She asked him to get involved. He didn't get involved again until Cath Oglesby called. We therefore need to move the reference to him getting involved on 4 March 2004 to paragraph 29. We need to re-jig the chronology to make it clear that he was getting involved at the end of January/start of February.

1. In paragraph 25, we need to say that Andrew Wiseman understood from the e-mail that Sarah phoned the lottery team at transaction processing and he confirmed that there were some errors in the time and in recording of receipts, for example, in one week he failed to report all lottery transactions, but the next he would overstate them. Consequently the balance jiggled about.
2. At the start of paragraph 27 we need to explain that this took place in February 2004. We also need to say that he doesn't specifically recall telling him that but he can see from his e-mail the swap that they suggested.
3. At paragraph 29 we need to say that although he doesn't recall it his e-mail suggests and he believes that they concluded the Horizon system was working properly etc.
4. At paragraph 30 we need to say that the persons or employees of MDSE and we also need to say that of those involved in assisting with the investigation of the main queries, he probably dealt with very few of these calls.
5. Also going over on the chapter points in respect of clarification, the main point being that at the conclusion saying there were a certain number of calls, so many related to minor issues of which a certain number related to Horizon issues which were on certain dates.

Meeting with Anne Chambers

We went through Anne's Witness Statement. She said that she had personally got a new set of referrals for six years. Three to four years sub-postmasters had been complaining

that there is a problem or have complained if there is a problem. Sometimes there is a major for example, all the cash and stock appears to have vanished out of the office. But those sorts of errors are singular and not continual. The Horizon system is built on a system called repost and uses that basic system albeit this has been written by Fujitsu and expanded upon for the Post Office. Anne doesn't recall that there were any software upgrades at this time. There will be no software upgrade in one particular branch unless a dial-up flared for that branch ie. it wasn't able to remotely update that branch for a while. In other words, all the software upgrades that did take place happened in all the branches.

1. At paragraph 3 of her Statement we had to say that Anne has access to each record and has refreshed her memory from them. At paragraph 7 of her Statement we are to say that the central reconciliation report ie. that is the report if there are any problems, for example, if things are partially entered they show up in one of these reports. Anne checked two weeks of reports of this Post Office. Their investigation took several hours and took place all on one day.
2. Paragraph 12. Anne clarified that at the end of each day when they had declared cash in the office that is called the Ent Report. When they are prompted to record the denominations on the system. This gets written into the message store. Can get access to that if we needed.
3. Paragraph 13. Again we have to clarify the overnight cash collections as the Ent Report. She also said that she looked in particular to see if there was a link with the days when the stock was run in because in Call No. 454 he said that this was a problem.
4. In paragraph 14 Anne should say that after "thousands of pounds astray" she should add the words "(sometimes up, sometimes down)".
5. At paragraph 15 we are to add at the end that Anne was unable to know which way and base upon which the Horizon system could be causing the losses ie. she had examined the specific issues raised by the sub-postmaster. These do not appear to be causing inaccuracies and it will not discrepancies in the cash accounts. She couldn't take us any further and she could find an explanation to link the shortfalls to the specific issues that we had raised.
6. We are to delete paragraph 16.

Meeting with Mandy Talbot.

Tom explained that the big issue in this case was proving the loss. Horizon is like a big calculator and it can be changed after the event (Tom went on to explain why). The only way to prove the loss is in taking the starting the position and the ending position and see what the difference is. Richard Morgan explained that the alternative is to say that we rely on the admission of the cash accounts, ie. that they were signed by the sub-postmaster.

It is not easy to prove that the Post Office is owed money. To achieve proof will cost more money than the claim is worth. Anne Chambers will be persuasive but she is investigating an occurrence where the sub-postmaster said that the electronic banking authorisation and said that the system could not rescind it. Cath Oglesby was sensitive as to whether the decision was taken in advance of the hearing to dismiss Mr Castleton. This doesn't affect the case legally, but it isn't great PR. However, the accounting work to be done with litigatory the opening audit to see where the cash had gone. We will move the territory away from Horizon to what cash came in and what cash went out. Their defence is that the Horizon system was to blame, but they haven't really made their defence very clear.

Richard thought that the counterclaim was poor.

Mandy Talbot said that the difficulty is this has almost become a test case in spite of itself. The Post Office other solicitors' cases are waiting and watching on this.

Richard Morgan said that settlement was attractive from both sides. The Post Office wants to recover the amount on the accounts they are owed. This would be less than the amount of recoverable costs going forward.

Agreeing with Mandy that the priorities were as follows:-

1. We would batten down Rowe Cohen's view on the strategy we propose to him.
2. On a without prejudice basis I will say to them that I was surprised that they didn't accept out without prejudice offer.
3. We will follow up with the Post Office business side to see if they can get the opening audit because we need to establish this is a way to approve that there is a loss.

Mandy also confirming she had no objection to the vacation of the trial date (if the Court lets us) as the ran out, the better in so far as we would then get the experts to have a real thorough look at this.

Time Engaged in meeting, four witnesses and Mandy Talbot over the course of the day (excluding travelling time): **5 hours 45 minutes** (we worked through lunch).