Neutral Citation Number: [2013] EWHC 4579 (Ch)

Case No: CH/2013/0092
CH/2013/0179

IN THE HIGH COURT OF JUSTICE
CHANCERY DIVISION

Royal Courts of Justice
Strand
London WC2A 2LL

Monday, 16 December 2013

BEFORE:

MR M ANDERSON QC
(Sitting as a Deputy Judge of the Chancery Division)

BETWEEN:

GEORGIOU

Applicant

- v -

LONDON BOROUGH OF REDBRIDGE

Respondent

and

SAVVA

- v -

LONDON BOROUGH OF REDBRIDGE

The Applicant, Mr Georgiou. appeared in person

MS J MEECH appeared on behalf of the Respondent

Approved Judgment

Court Copyright ©

Digital Transcript of Wordwave International, a Merrill Communications Company
101 Finsbury Pavement London EC2A 1ER
Tel No: 020 7421 6131 Fax No: 020 7421 6134
Web: www.merrillcorp.com/mls Email: mlstape@merrillcorp.com
(Official Shorthand Writers to the Court)

No
No of folios:

1. THE DEPUTY JUDGE: Mr Georgiou seeks permission to appeal against the order of District Judge Manners made on 24 January 2013 dismissing his application to set aside a statutory demand dated 27 September 2011. The statutory demand was founded on four liability orders alleged to have been made under the Council Tax (Administration and Enforcement) Regulations 1992 on 29 January 2009, 29 October 2009, 27 May 2010 and 30 June 2011.

2. Mr Georgiou's case as set out in his grounds of appeal is that the respondent, London Borough of Redbridge, has failed to produce any satisfactory evidence that the liability orders have been made. He says that the statutory demand is therefore based on a debt which cannot be proved to exist and he argues that liability orders which are the subject of a statutory demand must be proved by what he says in his grounds of appeal must be a sealed and signed order of the Magistrates' Court.

3. The argument arises because Magistrates' Courts, upon pronouncing liability orders, do not (or at least in the relevant period did not) issue sealed written records of the orders. In fact, all of the documentation recording such orders appears to have been generated by the billing authority, in this case Redbridge. The procedure is described in paragraph 10.1 of the witness statement dated 18 July 2012 which was in evidence before the district judge and which appears at page 28 of the appeal bundle.

4. The procedure was that a large number of applications for liability orders were typically presented to the Magistrates as a batch. The resultant order took the form of a single front sheet which recorded that the complaint had been made and its date and then referred to an accompanying schedule which listed the names and details of all the debtors which were the subject of the summons and of the order. The signature of a justice of the peace was appended to the front sheet only.

5. Copies of the four liability orders relevant to Mr Georgiou, together with the relevant pages of the supporting schedules which bear his name and address, were adduced in evidence before the district judge and are in the appeal bundle before me at page 38 and following. Those copies have been certified by an employee of the London Borough of Redbridge, as true copies of an original document.

6. I know of no principle of law that requires that an order of a Magistrates' Court, and specifically a liability order under the 1992 Regulations, needs to be recorded in the court's file in any particular form before it can be said to have been made. Rule 66 of the Magistrates' Court Rules, if it applies to liability orders under the 1992 Regulations (about which I have not heard any detailed argument), would require that the liability orders are registered in the court record, but it does not say that orders which are not so registered are not valid. Neither do I know of any principle of law or practice that requires that an order of the Magistrates' Court be authenticated by a seal or by any particular mark at all. For these reasons I consider Mr Georgiou's contention that the evidence adduced to prove these liability orders was ineffective to provide such proof to be unarguable.

7. I note moreover that these liability orders, though prepared by the billing authority, bear the signature in each case of a justice of the peace. In argument before me Mr Georgiou questioned the authenticity of the signature. He said that on one occasion he went to the Magistrates' Court to be told by a member of staff that the signatures were unrecognised as signatures of any magistrate who sat in that court. However, that assertion was not given in evidence before the district judge.

8. Mr Georgiou also asserted that there was no evidence that his name appeared in the schedule to the orders, but the copies are certified and there is no reason to question that certificate. I am told that the orders were taken to court in the course of the proceedings under appeal so that they could be inspected. Mr Georgiou points out that the copy of one of the orders (which appears at page 203 of the appeal bundle) bears a date which, though predating the date of the alleged liability order, postdates the date of the alleged summons. I do not know whether that is a point which is capable of being explained. Ms Meech, who appeared for the respondent before me, was unable to explain it but she had not had an opportunity to take instructions on it. It certainly does nothing to undermine the certificate on the copy at page 41 that this is a true copy of the order and of the relevant page from the schedule.

9. The important point as it seems to me is that the liability orders bear the signature of a justice of the peace which thereby authenticates them. Moreover, Mr Georgiou made an application to discharge these liability orders and made that application to the court in which they were purported to have been made. That court dismissed those applications to set the orders aside and affirmed the orders. For that reason again there is nothing in the point that these orders are somehow not proper orders of the Magistrates' Court. Not only do they appear to have been made in the first place, but they appear to have been affirmed by the same court upon Mr Georgiou's application.

10. Regulation 49 of the Council Tax (Administration and Enforcement) Regulations 1992 provides that:

> "(1) Where a liability order has been made and the debtor against whom it was made is an individual, the amount due shall be deemed to be a debt for the purposes of section 267 of the Insolvency Act 1986..."

11. It follows that the liability orders were properly the subject of a statutory demand as served on Mr Georgiou on 27 September 2011.

12. Rule 6.5(4) of the Insolvency Rules 1986 provides that:

> "(4) The court may grant an application [to set aside a statutory demand] if -
>
> ...
>
> (b) the debt is disputed on grounds which appear to the court to be substantial; or
>
> ...

(d) the court is satisfied, on other grounds, that the demand ought to be set aside."

13. On one reading of his judgment the district judge may appear to have approached his task on the footing that he should decide if the liability orders had in fact been made: see paragraph 4 of the judgment. That was not his function. His task was to decide if the debt was disputed on substantial grounds or whether there was some other reason to satisfy him that the demand should be set aside. However, I read his judgment as meaning in the round that there was overwhelming evidence that the liability orders had been made; in other words, that there was no substantial reason for challenging that they had been made. I can see no reasonable prospect of that conclusion being overturned on appeal.

14. If I am wrong about that and if the district judge did in fact err by purporting to resolve the factual issue on the balance of probability instead of just inquiring whether there was a substantial issue to be resolved, yet nevertheless, if he had asked himself the correct question there could only have been one answer on the evidence before him and on the evidence before me, namely that there was not a substantial issue to be resolved.

15. The district judge correctly found that the orders were made when pronounced and that there was no need for any particular form of record of the order: see paragraph 12 of the judgment. I think that this finding is unchallengeable for the reasons which I have already explained.

16. For these reasons I think this appeal would have no prospect of success and permission is therefore refused.

17. It will be noted that, in reaching this conclusion, I have placed no reliance at all on the memorandums of conviction at pages 74 and 75 of the appeal bundle. Mr Georgiou is, perhaps understandably, very preoccupied with those documents, but in my view they add nothing to the respondent's case and I am content to deal with this application without regard to them.