

In the County Court sitting at Wandsworth

Case number G00WT667

Between

Metropolitan Housing Trust

Claimant

and

Mr Leslie Parry

Defendant

Before DJ Parker on 22nd September 2020

Judgment

Miss Mattson Counsel for the Claimant

Defendant in person

This Judgment is written following the oral judgment on 22nd September 2020.

This is the hearing of a committal application. I have heard from the Defendant in person and Counsel instructed by the Claimants. At the start of the hearing the Defendant was given a reminder of his right to silence. He gave an affirmation before giving any evidence and making submissions.

I heard live oral evidence from Mr Laidlaw and PC Seddon the Claimant's witnesses. I have read the documents in the bundle.

This matter concerns an order made on 31st July 2020 without notice under S.1 Anti Social Behaviour Crime and Policing Act 2014. It prohibits the Defendant from entering or residing at 11 Carrara Close, entering Carrara Close or engaging/threatening to engage in conduct likely to cause a nuisance or annoyance to any person residing in or visiting the locality of Carrara close, including but not limited to the playing of loud music.

The order was continued on 13th August 2020 at an on notice hearing.

The Defendant was arrested on 27th August 2020 and brought before the court, when he was remanded on bail until today's hearing.

There are three allegations,

First - that the Defendant attended 11 Carrara Close on 10th August 2020 and stayed the night in breach of clause 1 of the Order

Second - that the Defendant stayed in or around 11 Carrara Close during 11th August 2020 in breach of clause 2 of the Order

Third - that the Defendant made threats to and used derogatory language about his neighbour on 26th August saying "I could have punched him in the face, but I didn't" and calling him a "fucking prick" to PC Seddon in breach of paragraph 3 of that order.

The Defendant chose to cross examine the witnesses Mr Laidlaw and PC Seddon.

The breaches must be proven to a criminal standard – beyond reasonable doubt. I find all three breaches proven. In a way they were partially admitted by the Defendant who conceded that the video evidence of his presence, which was date and time stamped was clear. The video evidence was supported by the oral evidence of Mr Laidlaw. I find that the Defendant was present at 11 Carrara Close on 10th August, and stayed overnight, and was present at Carrara Close during 11th August.

Regarding allegation 3, the Defendant cannot remember what he said, but accepted that if PC Seddon had recorded his remarks, they were likely to be correct. I find that the Defendant said the words alleged on 26th August 2020, and that those words were threatening and derogatory.

Regarding the penalty, I have read the witness statements which formed the background to the present application. They describe a long process of the defendant using threatening language including the threatening the use of weapons and of playing loud music. The Claimant's witnesses describe their fear and anxiety, and indeed some witnesses are reported as being too frightened to make statements.

I have had regard to the Sentencing Guidelines. Step 1 is to assess culpability I find that these breaches are in Category B. They were deliberate breaches, more than minor. The Defendant was aware of the order and offered no reasonable excuse. He stated that he had done nothing wrong and that he does not feel that there should be any order.

Step 2 is to assess the level of harm. I need to take account of all the factors of the case and give consideration to the history and why the injunction was applied for. The original application contained very serious allegations and concerns raised by neighbours, most of whom were too scared to give evidence. The Defendant's judgment is impaired by the use of drink and drugs and he put residents in fear. The breaches occurred within a week of the order, there was more than one breach. The breaches were deliberate, and the reasons given for the breaches were not good reasons. It would put residents in fear if a court order was breached shortly after it was made. I therefore place the level of harm in Category 2.

The starting point is 12 weeks custody. I find that the custody threshold has been reached. I need to consider aggravating and mitigating factors. It is an aggravating factor that the breaches occurred shortly after the order, there were more than one, and that no good reason is offered. The threat and derogatory language targeted a witness/neighbour who had provided witness evidence. In mitigation, the defendant did not seriously challenge the facts of the breach, and the threat and derogatory language was not made to the neighbour/witness directly. There was no playing of loud music.

I am satisfied that I can reduce the custodial sentence from the starting point from 12 weeks to 56 days in the context of these breaches and history.

I have considered whether I can suspend the sentence. I am not satisfied that I can suspend. The Defendant presents a risk to neighbours. There was poor compliance with the order in a short time period after it was made, there is no strong personal mitigation, expression of remorse or recognition that the Order is legitimate.

I therefore impose an immediate custodial sentence of 56 days for each breach, to run concurrently – that is 56 days in total.

23rd September 2020.