



Neutral Citation Number: [2024] EWHC 1040 (KB)

Appeal Ref: KA-2023-000175

In the High Court of Justice
King's Bench Division
Appeal
Order of Master Cook dated 14th August 2023
Case number: KB-2023-002521

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 25th March 2024

Before :

THE HONOURABLE MR JUSTICE GOOSE

Between :

Denys Namystiuk

Claimant/
Appellant

- and -

NRC (UK Representation Office)

Defendant/
Respondent

THE CLAIMANT appeared in person
THE DEFENDANT appeared in person

Hearing dates: 25th March 2024

Approved Judgment

Ex-tempore judgment handed down on 25 March 2024
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MR JUSTICE GOOSE:

1. This is a renewed application for permission to appeal against the decision of Master Cook in the course of proceedings brought by the claimant, Mr Namystiuk against NRC IN UK. Mr Namystiuk I shall refer to as “the claimant”. He is a litigant in person and has brought proceedings making a claim against the defendant. The claim was not issued in the normal form, setting out detail as to how the claim was being made, which led a previous Master of the High Court on 7 June 2023 to make an order on its own motion staying the claim and declaring, in paragraph three, that the claimant had until 4.00pm on 11 August 2023 to make an application in writing for permission to lift the stay of the proceedings that the master was applying on that date. Also, for the claimant to provide a supporting particulars of claim; that is to say a document setting out in clear terms what his claim was, and also the legal basis for the claim which he was alleging and the cause of loss. That order on 7 June also included an order that if the claimant failed to comply, then the claim would be struck out.
2. On 7 July 2023, the claimant issued his application to lift the stay and he provided a witness statement. Also, he provided further argument in the course of the papers. On 16 August 2023, Master Cook considered the application by the claimant and the papers submitted and refused the application to lift the stay, directing that the claim be struck out as totally without merit. What that means, is that there was no possible argument at all of any merit in the claims being brought by the claimant against the defendant. On 6 March 2024, the claimant’s application for permission to appeal the order of Master Cook of 16 August 2023 was dealt with by a single judge on the papers. The application for permission was refused. The judge, on that occasion, agreed that the claim was totally without merit but, exceptionally, given that two judges had then concluded that there was no merit at all in the claims, the claimant was allowed the opportunity to renew his application orally before this Court which he has now done.
3. There are two grounds of appeal: firstly, the claimant argues that Master Cook was biased or partial in the course of his decision-making, and so should not have heard the application in the first place. In short, the claimant says that Master Cook has a connection with an unrelated charity, the Bar Benevolent Association and, as it is alleged, was in receipt of money from that charity and that, therefore, precluded him from acting dispassionately in the claimant’s claim against the defendant. The second ground of appeal is that the judge, was wrong to conclude that there was no arguable cause of action. In short, what Mr Namystiuk argues is that he has a claim based upon the unilateral offer, accepted by him when he provided information to the defendant, in return for which he understood that he would be given some money. Those amounts being said to be the Ukrainian money equivalent, but in sterling of £145 and also of £290 and then an unparticularised claim for £23,585.50.
4. In the course of oral submission by the claimant, he has had opportunity to add any further arguments to the documents that he has provided. Those documents are certainly sufficient for the purposes of setting out his case. I make due allowance for the claimant’s difficulty as a litigant in person making his claim in his second language. He has been able to make oral submissions. He has essentially emphasised the contents of his witness statement and skeleton argument, before he has concluded what he wished to say.
5. This Court at this stage, is required to assess whether the claimant has an arguable basis for his application to set aside the order of Master Cook. Accordingly, the two grounds I address, therefore, in order. The first ground is that Master Cook was either

expressly or implicitly biased in his decision-making because of his connection with the Barristers' Benevolent Association, a charity. In relation to that contention, I have no hesitation in concluding that there is no merit at all in an argument based on partiality and bias against Master Cook, in the decision he made on 16 August. It is not explained why even if there has been a connection between Master Cook and the Bar Benevolent Association, that could have any relevance at all to the claim against the defendant. It is not explained either what is the basis for asserting that Master Cook received any money from the Bar Benevolent Association, given that its sole function is to allow for litigants in person to be represented for no money. No payments are made to judges. Indeed, that would be anathema to the whole of the existence of that charity. Accordingly, I conclude, therefore, that the first ground of appeal is totally without merit and cannot be argued as a basis for suggesting Master Cook was in any way biased in his decision-making.

6. I turn then, to the second ground. That concerns the argument that there was and is an arguable cause of action. It is important, just for a moment to reflect on what it is that the claimant says within his witness statement about his cause of action. I summarise from within it in paragraph one but on page two. He says that on 8 March 2023, he registered via the WhatsApp messaging application his mobile phone number after he had read on Facebook a notice from NRC (which stands for the "Norwegian Refugee Council") in which it invited those who were internally displaced within Ukraine as a result of the conflict going on within the country at the hands of the Russian Federation, to explain the story or the background to families for the purposes of the NRC's functions. It said that payments would be made into the Ukrainian bank account, or by money transfer for people who do not have a bank account and invited those who wished to receive some financial assistance, was specified as in what I can only describe as fairly modest amounts when one considers the claim as identified by the claimant of £145 and £290, which was necessary to be registered to receive that money.
7. Accordingly, when the claimant did register his mobile phone on the WhatsApp account of the NRC saying "Hello" and the purpose "To receive cash assistance as an internally displaced person" on February 24, 2022, from the city of Kyiv to the city of Vyshorod[?], he gave the information of his home and answered questions. He received a response on March 21, 2023, a message on WhatsApp to his mobile phone, saying that the application had passed the first-stage selection and was selected for the second stage of the NRC multi-purpose assistance programme being run by the NRC, the Norwegian Refugee Council. He then goes on to say in his statement that he did not receive any further questions in the second stage for him to answer, and he wrote separately on March 29, 2023 asking for further information so that he could complete the process. He received a notification saying that the NRC multi-purpose assistance programme had ended.
8. It is clear to me, therefore, that whilst the claimant began the process, he did not proceed through its different stages and did not complete the application process. His claim is that he has been deprived of the opportunity either to actually receive the money or to have a chance to receive it. However, if a claim exists at all, then it is for the possibility only of rather small amounts of money indeed. My own conclusion on the evidence filed, is that he had not completed the process and because he had not completed it, he has no claim.
9. Secondly, he does not explain in his statement how a claim against the Norwegian Refugee Council could arise within the jurisdiction of this court given that the claim is against a body which although it may have, when one considers the title in the

proceedings as “NRC IN UK”, a presence in the UK, but the Norwegian Refugee Council does not of itself appear to be within the jurisdiction. The claimant himself is a Ukrainian national, although he is residing in the jurisdiction for the time being. However, I am not persuaded that his evidence provides any arguable basis that there is jurisdiction in this court in relation to his claim. Accordingly, for those two reasons, I am not persuaded that there is any arguable basis of a claim against the defendant based in contract or at all.

10. The supplementary point that arises is a further claim based in discrimination. Whilst it is not particularised as to how that claim arises, under which remedy, whether under the Equality Act 2010 or otherwise, it is not disclosed properly within any of the evidence that has been filed, other than to say:
 1. “My claim has not been proceeded with. I have been discriminated against because of my nationality”,
 2. or in some other way. No identifiable protected group of society has been expressed save for him being of Ukrainian citizenship.
11. It is also argued that by striking out the claim, as has been done within these proceedings, that the claimant has been prevented his human rights to a fair trial. I am not persuaded that that is arguable in this case, because the right to a fair trial is not an absolute right and as long as there is a clear and reasonable and proportionate procedure for running proceedings within this jurisdiction, this case has certainly satisfied those procedures. The applicant has been given not just one but now three chances in order to try to persuade the Court that he has a claim, and on those occasions he has failed.
12. Accordingly, therefore, I must conclude that the claim that is brought by the claimant is not one with any arguable merit. I conclude also that the decision of Master Cook was a decision that it was open to him to make and was correct. I decide that there is no arguable basis that Master Cook was in any way biased or partial. I agree entirely with the reasons of the single judge, when permission to appeal was refused. Accordingly, this is now the final hearing that the claimant has and his claim must, therefore, remain dismissed in accordance with the earlier orders.

End of Judgment.

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