



EMPLOYMENT TRIBUNALS

Claimant

Mr H Bell

Respondent

Surreyheath Borough Council

v

PRELIMINARY HEARING

Heard at: Watford

On: 24 May 2018

Before: Employment Judge Jack

Appearances:

For the Claimant: In Person

For the Respondents: Rebecca Batten, Counsel

JUDGMENT

1. The respondent has closed the Prohibition Notice, the subject of the claim.
2. The appeal is stayed.
3. Each of the parties be at liberty to apply to lift the stay if the respondent issues a further Prohibition Notice in respect of the claimant's go-karting track.

REASONS

The issues

1. By a Prohibition Notice issued on the 16 February 2018 the respondent required the claimant to carry out various works to his go-karting track which he runs at Lightwater Dirt Track.
2. The form of track is used for go-karting but it is a slightly unusual form of kart track in that it is a dirt track rather than a made-up track as the majority of such tracks are in this country. That Mr Bell says means that the safety precautions

which have to be taken are slightly different to those which would be used in the other forms of tracks.

3. He has always objected to the works which were required to be done as part of the Prohibition Notice served by the respondent's.
4. It is fair to say that the respondent's understandably do not have very much experience of the regulation of go-kart racing or of this particular form of dirt track as a result of which they were having to rely on not just their own inspection but on reports which they received from others. Mr Bell says that the way in which the respondent went about deciding what safety measures should be taken was inappropriate and was fundamentally flawed.
5. He is keen to have the current Prohibition Notice quashed. However, the position now is that there have been some negotiations between Mr Bell and the Environmental Health Officers of the respondent. This has resulted in Mr Bell doing some works, he says not in compliance with the Prohibition Notice which he thinks is completely flawed as I have said, but he has nonetheless done some works and the respondent is now satisfied that the track can be used. It is however keeping the matter under review and it is quite possible that there will be a further Prohibition Notice served on Mr Bell in due course but the current position is this that the respondent has closed its Prohibition Notice and is happy for the claimant to open his go-kart track again.
6. Mr Bell is concerned about the effect on his reputation of having had a Prohibition Notice. That is a relevant factor but it has to be born in mind that if the appeal was going to be heard substantively that would involve an enormous amount of expense on both sides because there would be a need for experts. The trial would almost certainly last three days at least with probably the necessity for a site inspection.
7. Given that the Prohibition Notice which is the subject of this appeal has been overtaken by events, in my judgment the appropriate course is to stay the appeal, however I would give a liberty to apply to either parties to lift the stay if a further Prohibition Order is issued. It is likely from what I have heard from Mr Bell that if a further Prohibition Order is issued then he will seek to appeal that.
8. What I would anticipate the tribunal doing is consolidating this case with any further appeal which is brought and then appropriate directions can be given. As it is the current appeal is largely academic and in my judgment applying the overriding objective of the tribunal's rules of procedure it is not appropriate to devote so much of the tribunal's resources to this appeal unless and until another Prohibition Notice is served, the matter should remain stayed.
9. That does not mean that the claimant does not have any remedies. He takes the view that the respondent were acting completely inappropriately in issuing its Prohibition Notice. There are potentially civil law claims which he can bring in respect of that, that is a matter on which he needs to take advice but it is not a

matter which the tribunal would be able to determine. The tribunal's role is simple to determine whether the Prohibition Notice should be upheld or quashed or indeed varied. In those circumstances the judgement of the tribunal is this:-

1. The respondent has closed the Prohibition Notice, the subject of the claim.
2. The appeal is stayed.
3. Each of the parties be at liberty to apply to lift the stay if the respondent issues a further Prohibition Notice in respect of the claimant's go-karting track.

Employment Judge Jack 31.5.18

Sent to the parties on:

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For the Tribunal:

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