



MOHAMED ABDULRAHMAN v CIRCLE 33 HOUSING TRUST LTD (2017)

CA (Civ Div) ([King LJ](#), [Burnett LJ](#)) 29/06/2017

CIVIL PROCEDURE - HOUSING

ANTI-SOCIAL BEHAVIOUR : BREACH OF INJUNCTION : COMMITTAL ORDERS : SERVICE BY ALTERNATIVE PERMITTED METHOD : CIVIL PROCEDURE RULES 1998 r.81.8 : CPR

Service of an injunction by alternative method under [CPR r.81.8](#) had been effected by posting the order through an individual's letterbox. The judge had been entitled to make a committal order against him after finding on the evidence that he had prevented access to his property for the purpose of carrying out repairs, in breach of the injunction.

The appellant appealed against the imposition of a committal order against him.

The respondent was a housing association and had granted the appellant an assured tenancy in a flat. The flat shared a communal front door and a communal letterbox with the flat next door. In 2014, the appellant began behaving in an anti-social manner towards the resident of the other flat, putting superglue in the lock of the communal door which prevented access to the property, and also changing the locks. In June 2015, an injunction was granted prohibiting the anti-social behaviour and stating, inter alia, that the appellant should not block the landlord, the landlord's employees or contractors' access to the property during reasonable hours to carry out repairs. It stated that the respondent should serve a copy of the order on the appellant by inserting it through the letter box of his flat, which was done. Contractors attended the property in order to undertake maintenance works. While repairing a fuse the electricity was cut off for a short period of time. The appellant brandished his walking stick at the contractors and shouted abuse at them. The contractors were forced to leave the premises without finishing the work. The following day, having requested access to the flat the week before, an employee of the respondent attended the flat. He found the unopened letter containing the injunction which had been served on the appellant on the floor outside. He did not answer the door. The respondent applied to commit the appellant. The judge found that the appellant had breached the injunction twice and committed him to prison for 28 days, suspended for two years.

The appellant appealed against the committal order on the basis that the injunction had been inadequately served, and he attempted to re-argue issues of fact already determined.



HELD: Under [CPR r.81.8](#), the court was entitled to dispense with service by the usual route and make an order in respect of service by an alternative method or at an alternative place. The court had jurisdiction to make an order that the injunction would be personally served if put through the appellant's letter box, which it had been. The appellant had been in court when the injunction had been granted and he had been aware at all times of its terms. As for the issues of fact, the judge had heard from all the parties. The appellant had been represented by counsel. The Court of Appeal was a court of review and should not make findings of fact. The appellant maintained that he had not breached the injunction as he had not prevented entry but merely left his flat, and that the contractors chose to leave. One of the contractors gave evidence that he had never been subject to such abuse before. The judge had been entitled to find that that amounted to breach of the injunction. The terms of the order were not restricted to the appellant's flat, but clearly included preventing repairs to the premises and adjoining property. The judge had considered video and oral evidence with regard to the contractors and had concluded that they had been forced to leave. As a consequence, she had been entitled to find that he had breached the injunction, as his behaviour had prevented the contractors from carrying out work on the property.

Appeal dismissed

Counsel:

For the appellant: In person

For the respondent: Marcus Harry

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