

Onyema Isiguzu v Elyes Hemmami Bozena Sputo Hemmami



No Substantial Judicial Treatment

Court

County Court (Central London)

Judgment Date

9 August 2023

Ref. K00CL603

Central London County Court

2023 WL 07198504

Before Deputy District Judge Hull

9th August 2023

Representation

Ms Hicks appeared on behalf of the Claimant.
The Defendants did not attend and were not represented.

Judgment

Judge Hull:

1. This is a judgment of 9 August 2023 in the County Court at Central London in claim number K00CL603. The claimant is Mr Onyema Isiguzu and the 1st defendant, Mr Elyes Hemmami, 2nd defendant, Mrs Bozena Sputo Hemmami, and it is a judgment given following a possession hearing. It was listed for 19 minutes, of which the claimant has appeared represented by counsel, Ms Hicks, and the defendants have not appeared.

2. This is a hearing on a possession claim regarding property at 23 Weardale House, Woodberry Down Estate, London N4 1QN, in respect of which three points have been taken by the defendants. First, they dispute the validity of the section 21 notice, saying it gave them less than two months' notice. Secondly, they say they were not given a valid gas safety certificate in the 12 months prior to the section 21 notice, and, thirdly, they dispute having been given a "How to Rent" booklet.

3. The matter has previously been before the court when, on 17 May 2023, DDJ Le Bas, sitting at the County Court at Mayor's and City of London, adjourned the case to the first open date after 15 June 2023. The parties were given permission to file and serve any witness statements by 4 pm on 7 June 2023 and they must file and serve skeleton arguments by no later than 4 pm on 14 June 2023 in relation to those three issues: service of the section 21 notice, compliance with [The Gas Safety \(Installation and Use\) Regulations 1998](#), and service of the "How to Rent" booklet, and following that there have, indeed, been witness statements and skeleton arguments served for the parties.

4. I have had regard to the witness statements filed for both defendants, even though they are not here at court, and I have had regard to the witness statement of the claimant, who has appeared at court and who has formally confirmed the truthfulness of his witness statement under oath to the court.

5. Dealing with each of the points in turn. Service of the section 21 notice. It is clear from the statutory provisions in the [Housing Act 1988](#) , a section 21 notice must be served so as to give not less than two months' notice. In this case I refer to the certificate of service dated 2 February 2023, but which refers to service having taken place on 29 November 2022, when the section 21 notice was served by first class post or other service which provides for delivery on the next business day.

6. That means that under the terms of this notice deemed service is said to have taken place on 30 November 2022, being the next business day, 29 November 2022 being a Tuesday. Even if it is correct that the defendants did not physically receive the notice until some time in December 2022, it seems to me that the deemed service provisions prevail and indeed apply.

7. To the extent it is relevant as a matter of any discretion on this issue, or considerations of fairness and justice on this issue, it is clear to me, and I accept, that the defendants, in any event, had had longstanding notice of the claimant's wish to recover possession of the property, there having been a prior section 21 notice that was struck out in prior proceedings between these parties. But it seems to me that is just a background consideration and the important point is deemed service means that the section 21 notice met the period of two months' notice required.

8. I am satisfied that the How to Rent booklet was given prior to service of the section 21 notice either on 22 November 2022 and/or in October 2021 prior to the previous set of proceedings between these parties.

9. That leaves the issue of the gas safety record, and it is true that the claim form in these proceedings refers to gas safety certificates up to and including 15 October 2021 having been given to the defendants, and the defendants are *prima facie* correct to say that, therefore, the section 21 notice was not valid unless the court could be satisfied that a subsequent gas safety certificate was served upon them in the 12 months prior to the section 21 notice being served.

10. I have had regard to paragraph 21 of the claimant's witness statement in which he explains that there was indeed a further gas safety certificate which was given to the defendants on 18 October 2022, and he exhibits a copy of the said gas safety certificate dated 18 October 2022.

11. In circumstances, therefore, where I accept, notwithstanding what is said in the defendants' witness statement, but having seen the claimant, he has come to court and confirmed the veracity of his evidence, it seems to me that on balance I must, and do, accept his evidence in that regard and, thus, I accept that there was a valid gas safety certificate given in October 2022 and, thus, the section 21 notice is valid in that regard also.

12. Taking all of these points together, and these are the only points that I am aware the defendants have raised as to the alleged invalidity of the section 21 notice, it seems to me then, on the balance of probabilities, that a valid section 21 notice was given.

13. I have had regard to the defence in this matter and whether there would be exceptional hardship if the standard 14 day possession order were made. I am not satisfied that exceptional hardship would be suffered and in those circumstances my order is possession within 14 days.

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