

CO/5198/2002

Neutral Citation Number: [2003] EWHC 1900 Admin
IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
THE ADMINISTRATIVE COURT

Royal Courts of Justice
Strand
London WC2

Thursday, 3 July 2003

B E F O R E:

MR JUSTICE MACKAY

THE QUEEN ON THE APPLICATION OF SHANKS

(CLAIMANT)

-v-

NORTH TYNESIDE COUNCIL

(DEFENDANT)

Computer-Aided Transcript of the Stenograph Notes of
Smith Bernal Wordwave Limited
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(Official Shorthand Writers to the Court)

MR J RODGER appeared on behalf of the CLAIMANT
MR J RANKIN appeared on behalf of the DEFENDANT

J U D G M E N T
(As Approved by the Court)

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1. MR JUSTICE MACKAY: It is always difficult to adjudicate on costs when one has not decided a case, but luckily I had read this case as a contested matter -- and I do not intend this as any criticism of anybody -- before the terms of agreement. The fact that there were terms of agreement was communicated to me so I do have a feel for the issues.
2. I think in favour of the claimants the point is that essentially the declaration gives them what they need, and if the language of success or victory is used, they are better described as victims out of the very sensible agreement that the parties have reached in the sense that it essentially gives them what they set out to get: to clarify their licensing position.
3. There is some force in the argument of Mr Rankin that this could have gone down a different route, but I suspect this dispute would have finished in this court one way or the other whatever the magistrates had ruled. This is classically an administrative law point. I cannot categorise as unreasonable the claimant's desire to use this court and to seek the position of this court to do so. I do not think they should have run the risk of prosecution and contested the matter in that way.
4. So far as service of the skeletons are concerned, Mr Rodgers candidly says he was a little late with his responses to the skeleton which seems to have swayed Mr Rankin and his clients finally to accede to these terms, but as he points out, he did not actually have an obligation to serve it at all and could have held his fire until the oral hearing today.
5. I am always slow as a matter of instinct to penalise or to order costs against defendants to claims of this sort who reach terms of settlement in a sensible way, as I think these defendants have done, which involves them re-thinking and re-considering their position to an extent and they must never be discouraged from so doing.
6. That having been said, the issue at heart here is a purely legal one. It was always pretty clear, in my judgment, what the claimants were saying and costs could have been saved if the re-consideration had taken place a little earlier than it did.
7. Both parties agree that I should therefore decide this question of costs as best as I can on the submissions and information before me. In the exercise of my discretion on the facts of this case I will order that the defendants pay the claimant's costs of these proceedings, and that they should be subject to a detailed assessment if the parties agree that could usefully take place in Newcastle-upon-Tyne County Court to be the venue for that taxation.
8. **I make the declaration by consent in the terms sought, namely that:**

"A private hire vehicle operator is not precluded from using Hackney Carriages for a private hiring."
9. The parties are happy that has the effect of clarifying or amending the conditions they impose on this kind of licence. I make that declaration by consent having received an undertaking from the claimants and a withdrawal of its complaint in respect of this matter at the North Tyneside Magistrates Court.
10. MR RODGER: My Lord, my learned friend rightly prompts me to mention the issue of costs at the Magistrates court. I think we are agreed that those costs should lay where they fall.
11. MR JUSTICE MACKAY: No order as to the costs of the Magistrates proceedings.