

Richmond Upon Thames v Mr Malcolm McGow

Case Ref: 2020298182

PCN: RT55121644

DECISION

These reasons relate to the applications for review by the Councils in PATAS Case Numbers 2020400303 (Harrow) and 2020298182 (Richmond upon Thames).

In both cases the Appellant paid the reduced penalty outside the 14 days allowed, the Council cashed the cheque and then sought payment of the balance of the full penalty. The issue raised in both cases is what was the legal effect of the cashing of the cheque; in particular, did it debar the Council from pursuing payment of the balance?

In each case the Adjudicator took the view that the payment had implicitly been offered in full and final settlement. He found that the Council had accepted it on that basis and could not then pursue the balance. Even were one to regard this as a matter of the general law of debtor and creditor, the taking of a payment offered in full and final settlement does not, except in specific circumstances, debar the creditor from pursuing the balance of the debt. In any event, this is not a pure civil debt. This is a statutory scheme. The amount of the penalty is prescribed under that scheme and payment of a lesser amount does not relieve the person liable of the statutory liability for the full penalty due.

The Council would, of course, still have to take steps to enforce the penalty within a reasonable time: *Davis v Kensington & Chelsea (PATAS Case Number 1970198981)*. Council's should have in mind also that informing the motorist promptly that the Council will be enforcing full payment is important. This is because if there is any delay in doing so the motorist may assume the matter is closed and dispose of relevant papers. In such cases, the Adjudicator will be mindful of whether the requirement of a fair trial can be satisfied.

In addition, the Council would have the discretionary power to waive the payment of the full penalty and I would hope that they would exercise this in a sensible way by, for example, allowing a few days grace in payment to avoid counter-productive arguments about the effectiveness of the postal service.

I allow the reviews in these cases. **I note that the Councils have very fairly undertaken not to enforce further payment in the event of their being successful, so the Appellants have nothing further to pay.**

Adjudicator

Mr Martin Wood

Decision

Refused

Original Decision Subsequently Reviewed Under Regulation 11 of The Road Traffic (Parking Adjudicators) (London) Regulations 1993

Previous Decision Allowed

Adjudicator Michael Burke

Direction Accept the £30 already received as full and final settlement of the Penalty Charge.

Decision Mr. McGow does not dispute that the contravention occurred or that the PCN was properly issued and served. What he states is that he paid the reduced amount of £30 and that he should not have to pay any more money. The PCN was issued on 21.04.02. The Local Authority state that they received the payment of the reduced amount on 14.05.02. The right to pay the reduced figure only applies to payments received by the Local Authority within 14 days of the date of issue. It follows that in these circumstances the LA were entitled to refuse the reduced amount and insist on payment of the full amount. However, the Local Authority chose to accept the reduced amount. It seems clear to me that this was offered as full and final settlement. It was not open to the Local Authority to accept it on entirely different basis and pursue further money from the Appellant.