

Bond Pearce

# Telephone attendance

Client: Royal Mail Group PLC Sub Postmaster Litigation

Matter: Mr Lee Castleton

Matter no: 348035.134

Attending: Mark Turner

Name: Stephen Dilley

Location: N/A

Date: 8 September 2006

Start time:

Units: 54 mins

I had an open telephone conversation with Mark Turner of Rowe Cohen Solicitors. We discussed the following points :-

1. I referred him to his letter dated 25 July 2006 to Bond Pearce and specifically to paragraph 4 of that letter. In that letter he said that the figure of cash and stock carried over from Week 41 was £92,374.74. I asked him to get cash accounts for Weeks 41 and 42 in front of him. He did so. I explained to him that the figure actually carried forward from Week 41 was £54,170.02 for the cash and stock referring him to Page 2 of cash account Week 41 and explaining that that is carried forward to Week 42 because that is the cash and stock at the end of Week 41 because it says at the top of that page that it is week ending 7 January 2004. I said that therefore we believe that the calculations Mr Castleton had carried out as set out in their 25 July letter were inaccurate. The sum of £92,374.74 is the cash, stock etc. carried forward from Week 42 to 43 and referring him to Page 2 of the cash account for Week 42 for that information. I also said to him that we really weren't sure what Mr Castleton had done by way of a manual reconciliation but that I wanted to explain to him why Mr Castleton had been inaccurate before he instructed his expert, so that his expert didn't go down the same wrong route. He said that he had thought that he had accurately set out what his client's case was in that regard but he needs now to go back to his client just to check that his client is comparing the right weeks, but he understands what I was trying to say to him.

2. I told him that we had received a fee quote for our expert and that that fee quote was £62,000 plus VAT just for the Accountancy Expert. He said that did not surprise him and that their expert at the moment was just working on Week 42, but if you extrapolated that for the entire period, he could see how we arrived at the figure of £62,000. I explained to him that for that amount of money our expert was saying that they were going to do a very thorough job and look at the cash accounts before, during and after the time in question.

3. I explained to him that I had for the past few months been meeting various witnesses around the country to discuss this with them. The common theme that came out was not just that they were confident with the Horizon System but they were extremely confident with it. In particular I explained to him that I had more or less cross examined a roomful of IT people at Fujitsu on every single issue raised in the Part 20 Reply that he had sent to me and the summary of what they said was that irrespective of whether Mr Castleton was experiencing those computer problems that he said he was (which is not admitted), it wouldn't have had any effect on his balancing and wouldn't explain where the monies had gone.

4. In view of this, we fully expect that our expert will support what our witnesses are saying and you really would be surprised if the expert said that there were no losses.

5. I was conscious that he had referred to ADR earlier this week. Speaking on a without prejudice basis with him, I said that if the experts' reports swung very heavily one way or another, this may cause either side to rethink their position and he agreed with me. I said that the downside of that is that we expect the expert will support our position, but on the accountancy side alone, the Post Office will have incurred £62,000 plus VAT on their Expert Report, so if the Expert Report does as we think support our position, then we will look to Mr Castleton for that either at Trial or ADR. He acknowledged that the costs were disproportionate to what is at stake. Accordingly, whilst the parties may be more informed after exchange of Experts' Reports, commercially they may find it harder to settle because Mr Castleton might not necessarily have £62,000 in addition to the Claim and other costs that we are seeking, to be able to pay us.

He explained that he had advised Mr Castleton to disclose their Expert's analysis (once completed) just for Week 42 to us, to see whether that could perhaps generate settlement.

6. I suggested to him the following :-

(a) We agree a date for Witness Statement exchange – at the earliest to be in the week commencing 25 September, but probably later because I do not yet know when Ruth Simpson will be available for interview.

(b) We also agree amendments to Pleadings. He said he had no objection in principle to this. He was just awaiting client instructions on these points.

(c) Mr Castleton then provides us with his Expert's Report on a without prejudice basis.

(d) We look at that and instruct our Expert to do a summary response, which will hopefully be cheaper than £62,000 and that would have an obvious benefit to Mr Castleton on settlement if the experts say what we think they will. i.e. we wouldn't be looking to Mr Castleton for the £62,000 costs, or whatever lesser cost it was.

(e) We then have an ADR.

(f) We vacate the Trial date.

I said if we agreed these sorts of directions we would probably need to ask the Court to have an Agent at Case Management Conference to see if they will agree this.

Mr Turner could entirely see the sense of what I was saying, but he will need to take instructions from his client and then he will come back to me.

I also said to him that I wanted to make it plain that our client was not necessarily saying that Mr Castleton had taken the money. Our client does not say one thing either way or the other in that regard. It does not have to. All it has to do is to say that Mr Castleton failed to account for the money. There could be other parties that benefited from the cash going missing and I wasn't necessarily saying that it was one of his Assistants either. However, I just wanted to make sure that Mr Castleton understood that in case it was a point of honour with him. There could certainly be scenarios in which he had caused the loss or had been responsible for the loss to the Post Office without necessarily having benefited from the money himself. He told me that Mr Castleton did understand this to be the position.

I said to him that the main point in our case was that everything was kept the same when the personnel was changed, in terms of hardware. He said that he thought he agreed me in terms of hardware but thought there was a software update on or around 24 March that took several hours and Mr Castleton was probably going to contend that that effectively fixed any problems that had been occurring with his computer. I said that I had disclosed a list of all the software updates to him and I couldn't from memory remember that there had been a software update on 24 March. He said that he wasn't really sure about the 24 March date and would come back to me.

I will await to hear from him and pressed him to come back to me as soon as possible.

Time engaged including attendance note – 54 mins.