

IN THE HIGH COURT OF JUSTICE

Claim No: HQ05X02706

QUEEN'S BENCH DIVISION

BETWEEN:

POST OFFICE LIMITED

Claimant

-and-

LEE CASTLETON

Defendant

**FRONTSHEET TO AMENDED DEFENCE
AND COUNTERCLAIM**

Although the Amended Defence and Counterclaim is unsigned, it has been agreed between the Claimant and the Defendant that it should stand as the Defendant's case subject to the following amendment:

That the last line of paragraph 3 be changed to read 'Week 52' in place of 'Week 51'.

The agreement is subject to the question of costs.

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BETWEEN:

POST OFFICE LIMITED

Claimant

and

LEE CASTLETON

Defendant

AMENDED DEFENCE AND COUNTERCLAIM

Amended Defence

1. Paragraphs 1 to 5 ~~6~~ of the Amended Particulars of Claim are admitted.

2. As to paragraph 6 ~~7~~ of the Amended Particulars of Claim, it is admitted that by March 2004 there was an apparent shortfall in the account of Marine Drive Post Office of £25,758.75. The Defendant avers ~~however~~ that the final audit, following which he was suspended by the Claimant, took place on 23 March 2004, at which the above balance was produced by the Claimant's audit staff as a final figure before hand over. Upon his suspension, at around 14.00 hrs, the Claimant arranged for a temporary sub-postmaster to temporarily take over the Defendant's duties, who did so on 23 March 2004 by signing the P242 stock/cash account. In the premises, and without prejudice to the ~~more general denial~~ matters set out at paragraph 4 7D below, any apparent losses sustained after around 14.00 hrs on 23 March 2004 (including the ~~pleaded~~ loss of £176 in relation to National Lottery game sales on 24 March 2004) are not attributable to the Defendant.

- ~~3. In relation to the figure of £1,256.88 pleaded at paragraph 6 as a loss relating to "Automated products", the Defendant avers that this relates to the erroneous double crediting of the sum to the National Savings & Investment Bank account of one Mrs. GRO~~

GRO (which for the complete avoidance of doubt was not done by the Defendant), which sum was repaid to the Claimant by Mrs GRO in January 2005. Accordingly, it is denied that the Defendant has any liability in respect of that particular head of loss.

3. It is further admitted that the Defendant produced weekly Balance Lists and personally produced, signed off on and submitted to the Claimant Cash Accounts (Final) as alleged in paragraph 7, save that the first week in which such alleged losses occurred was in week 42 and was for £1,103.88, which the Defendant made good and that the Defendant did not sign off on the Cash Account (Final) for week 51.
4. Save as aforesaid, Paragraph 7 of the Amended Particulars of Claim is denied. Such alleged losses as the said weekly Balance Lists and Cash Accounts (Final) appeared to show were illusory not real.
5. The Defendant repeatedly sought assistance from his managers within the Claimant company during the period over which the apparent shortfall accumulated. No assistance was forthcoming. The Defendant avers that any apparent shortfall is entirely the product of problems with the Horizon computer and accounting system used by the Claimant.
6. The Defendant further avers that, upon disclosure by the Claimant of he will be able to demonstrate through a manual reconciliation of the figures contained within the daily balance snapshot documents created by the Defendant during the course of his tenure as sub-postmaster at Marine Drive Post Office, and which were removed from the post office on the Defendant's suspension, that the apparent shortfalls are in fact nothing more than accounting errors arising from the operation of the Horizon system. The Defendant will plead further and more fully in this regard following disclosure.
7. Paragraphs 8 to 10 of the Particulars of Claim are denied.
- 7A Paragraph 8 is denied. The said Cash Account (Final) for week 51 is not an account stated behind which the Defendant is not entitled to go:
 - i) It does not constitute an absolute acknowledgement by the Defendant; and/or,

ii) All of the accounting in it was done by the Defendant and not the Claimant; and/or,

iii) The Claimant does not allege that the account was approved by it; and/or,

iv) The Claimant does not allege that the account was entered by it as agreed in its books nor recognised by it in some way as correct.

7B Paragraph 9 is admitted, save that the Defendant repeats his allegations in paragraphs 3-6 above that the alleged deficiency was only apparent and not real and that accordingly it is denied that the Defendant owed the Claimant the sum alleged.

7C Paragraph 10 is admitted save that the existence of the alleged loss and the Defendant's obligation to make it good is denied as set out in paragraphs 3-6 above.

7D No admissions are made as to the facts in paragraph 11, being matters that occurred after the Defendant's suspension, and the Claimant is put to proof of them but the Defendant's liability for them is denied. Having been suspended as set out in paragraph 2 above, the Defendant had no way of transacting those matters and/or the Claimant's temporary sub-postmaster had already assumed responsibility for the branch and/or the Claimant's audit staff had balanced the accounts prior to her doing so.

7E Paragraph 12 is denied as set out in paragraphs 3-6 above.

7F Paragraph 13 is admitted save that the Defendant's obligation to pay the said sum is denied as set out in paragraphs 3-6 above.

7G Paragraph 14 is denied, whether pursuant to the taking of an account or an equitable duty to account, for breach of contract or pursuant thereto and the Claimant is put to proof of such loss and damage as it may have suffered as a result.

7H In the circumstances, the Claimant's claim in paragraph 15, whether for interest or equitable compensation akin to it, is denied.

Amended Counterclaim

8. The Defendant repeats paragraphs 1 to 7H of his Amended Defence above.

9. The Defendant avers that the Claimant wrongfully terminated the Defendant's contract as a sub-postmaster following his suspension and that the true cause of the apparent shortfall in the accounts of Marine Drive Post Office is the Claimant's own computer system not any misconduct or negligence on the part of the Defendant or his assistant.
10. By reason of the Claimant's wrongful termination of his contract, the Defendant has suffered ~~and continues to suffer~~ loss and damage:

Particulars

~~The Defendant is not yet fully able to particularise his counterclaim. However, the broad heads of loss in respect of which the Defendant claims are~~ is as follows:

- (a) loss of income as a sub-postmaster £3,750 x 3 = £11,250
- ~~(b) diminution in capital value of the Defendant's shop which previously shared the same premises as Marine Drive Post Office; and~~
- ~~(c) loss of profits from the post office itself, and the associated reduction in turnover at the Defendant's shop as a result of the removal by the Claimant of the post office franchise from the premises.~~

~~11. The Defendant is unable to quantify his counterclaim at this juncture but limits it to a figure not exceeding £250,000.~~

~~12.11.~~ The Defendant also claims interest pursuant to section 69 of the County Courts Act 1984 on such sums and for such period as the court shall consider appropriate.

AND the Defendant counterclaims

1. Damages;
2. Interest

DATED ~~15 August 2005~~

STATEMENT OF TRUTH

I believe that the facts stated in this statement of case are true.

Full Name

Signed

Served by Rowe Cohen of Quay House, Quay Street, Manchester M3 3JE

(Ref: MDT.113969)

Solicitors for the Defendant

ALEXANDER GOOLD

RE-DATED 7 November 2006

STATEMENT OF TRUTH

I believe that the facts stated in this statement of case are true.

Full Name

Signed

Served by Rowe Cohen of Quay House, Quay Street, Manchester M3 3JE

(Ref: MDT.113969)

Solicitors for the Defendant