

IN THE LIVERPOOL COUNTY COURT

3YS12586

Civil and Family Court
35 Vernon Street
Liverpool

11th December 2014

Before:

DISTRICT JUDGE JENKINSON

Between:

CHARLIE TENNANT

Claimant

and

W COTTRELL LTD

Defendant

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MR TAYLOR appeared on behalf of the Claimant
MRS S ROBSON appeared on behalf of the Defendant

JUDGMENT

*[*Transcript produced (and approved – LDJ) from extremely poor
quality audio recording]*

Thursday 11th December 2014

CHARLIE TENNANT – v – W COTTRELL LTD

JUDGMENT

1. DISTRICT JUDGE JENKINSON: The claimant's solicitors gave notice by way of a letter dated 23rd August 2013 that they were removing this case from the RTA portal. They are perfectly entitled to do that, but the rules specifically provide that if the court takes the view that the Claimant acted unreasonably in giving such notice, it should award no more than the fixed court costs that would otherwise have applied.
2. In my judgment, it is necessary to look at whether or not the claimant's solicitors acted reasonably in giving that notice at the time that they brought the matter out of the portal, rather than imputing hindsight. What effectively is being said on behalf of the claimant is that because the matter subsequently progressed to Part 7 proceedings, in which a defence was filed and in which the Defendant suggested that the matter should be tracked, the exit from the portal is effectively retrospectively justified.
3. It seems to me that the letter giving notice of removal from the portal is clear as to the reason why, i.e. because the defendant had not made offers. But the Defendant had made nil offers, which suffice in my judgment.
4. That appears to be the reason in the mind of the claimant's solicitors as to why the matter should come out of the portal at the time, and it is wrong in my judgment to look then at the course which the case followed once it entered a different costs regime completely. Defendants often do behave differently when they are seeking to defend a full Part 7 claim, as opposed to one proceeding within the fixed costs regime of the portal.
5. In my judgment, the reason why the claimant dropped the matter out of the portal was because the defendants made a nil offer in respect of two heads of damage, and justified doing so. That appears to be plain from the face of the letter of 21st August, and for that reason, in my judgment, the exit from the portal was unreasonable, and the claimant should be entitled to no more than the fixed costs that would have applied had the matter proceeded within the portal.

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