



**IN THE SUPREME COURT
TURKS AND CAICOS ISLANDS**

CL-APM 1A/21

BETWEEN:

STEPHENSON MORRIS

Appellant

AND

JAKARA LTD.

Respondent

REASONS

Before: The Hon. Mr Justice Anthony S. Gruchot

Appearances: Mr Stephenson Morris in person
Mr John Rutley of Rutley Law Offices for the Defendant

Hearing Date: 21st February 2023

Venue: Court 5, Graceway Plaza, Providenciales.



Introduction

1. This was an appeal of the decision of the Hon. Keri-Ann Kemble, Resident Magistrate given on 2nd September 2021 in which she gave judgment for the Jakara Ltd ('Jakara') in the sum of \$7,060.00. The appeal was filed on 3rd September 2021.
2. I dismissed the appeal, affirmed the decision of the learned Magistrate and summarily assessed the costs of the appeal at \$500.00.
3. Mr Morris has filed a Notice of Appeal against my decision with the Court of Appeal and I therefore set out written reasons for my decision.

Background

4. The claim was in respect of accommodation charges for an extended stay by Mr Morris at Grace Bay Place for the period of 7th July 2018 to 1st September 2018, a

period of 56 days at a rate of \$125.00 a night plus 12% tax. The judgment took into account a payment of \$780.00 made by Mr Morris.

5. Mr Rutley submitted that there had been at least 5 adjournments before the Magistrate at the request of Mr Morris but on review of the notes of evidence it appeared that the matter had been listed 13 times.
6. A preliminary issue arose in that Mr Morris stated that he was in court when the matter was heard, but the Magistrate failed to acknowledge him. However, it was clear from the notes of evidence and confirmed by Mr Rutley, that Mr Morris was in fact incarcerated at HMP Grand Turk and appeared by video link. This was also confirmed in the Defendant's notice of appeal.

The Appeal

7. Mr Morris complained that he was unable to read the bundle and said that he could not proceed with the appeal until a clear copy had been produced. I did not agree. Whilst the copy of the Plaintiff Note and Court form Particulars of Claim was not well copied, there was in the papers, a separate typed document entitled Particulars of Claim which clearly set out what was being claimed and how the sum claimed had been calculated. Mr Morris's complaint was therefore unjustified. Further, there was no suggestion that this was a complaint Mr Morris had made to the learned Magistrate.
8. The Notes of Evidence state that Mr Morris had left the video suite at the beginning of the hearing, after saying to the Court that he would not participate and will appeal. He states he did this because the Magistrate failed to acknowledge him and hear his request for a further adjournment. In the event, the Magistrate proceeded to take evidence from the Plaintiff's representative. Mr Morris was invited to return to cross-examine the witness and to put his case, but the prison officer reported that he refused to leave his cell.
9. Mr Morris complained that the learned Magistrate had refused to hear his submissions that he was not in a position to proceed with the hearing, as his paperwork was not with him in prison. In his notice of appeal, he stated that when the matter had come before the Magistrate on 29th July 2021, he had made a similar submission and had been granted an adjournment for a family member to get the paperwork to him. The learned Magistrate had given a clear mandate that Mr Morris was to appear with his paperwork on 2nd September 2021.
10. I was of the opinion that the Magistrate had become exhausted with Mr Morris's excuses as to why the matter could not proceed and had set a final adjournment on 29th July 2021.
11. Not having filed any statement, other paperwork, or evidence, I enquired what Mr Morris's defence was. He stated that he didn't owe the full amount as he had made some payments. He stated that there was proof of credit card payments. Mr Morris referred to a declined credit card receipt which was included in Jakara's evidence,

which he said was proof of payment. Jakara had taken a credit card pre-authorisation and when there had been default in payment had attempted to charge Mr Morris's credit card, but it was declined. It was clear from that document that the payment was not processed.

12. I noted that no evidence of payments being made to Jakara was before the learned Magistrate. If the defence was simply that payment had been made, then there was no reason that the matter had been adjourned so many times.
13. When asked what other evidence he had of payment, he responded that he didn't have anything with him as he had expected the appeal not to proceed, due to the fact he could not read the bundle. As I have said above, there was only one document that could be said to be illegible, but given the full particulars of claim produced, there was no reason to adjourn the appeal.
14. In response to the question from the Court as to what was the basis of his appeal, in particular how he was saying the Magistrate fell into error, he responded simply that she failed to acknowledge him and for that reason, he refused to participate.
15. It was beyond peradventure that Mr Morris refused to participate before the Magistrate of his own volition and I formed the view that he was simply trying to delay matters.
16. I explained to Mr Morris that the appeal was by way of rehearing and therefore he had a new opportunity to put forward his defence, and he had nothing to offer.
17. I, therefore, dismissed the appeal.
18. Mr Rutley sought his costs of the appeal which he invited me to summarily assess at \$500.00. Mr Morris suggested that it would not be fair to impose costs against him, but did not expand on that submission. It appeared to me that this appeal had been brought simply to further delay payment to Jakara and I was of the view that there was no good reason to disallow the modest costs claimed.

Disposition

19. The appeal was dismissed. The judgment of the Magistrate affirmed and Mr Morris is to pay the costs of the appeal summarily assessed at \$500.00.

12th May 2023

The Hon. Justice Anthony S. Gruchot
Judge of the Supreme Court

