

ROYAL COURT

24th March, 1992

48.

Before: The Deputy Bailiff, and
Jurats Vint and Le Ruez

BETWEEN:	Lyn Olive Hamel	PLAINTIFF
AND:	Peter Holloway	FIRST DEFENDANT
AND:	Luzia Holloway	SECOND DEFENDANT

Advocate N.F. Journeaux for the plaintiff.
Advocate A.D. Robinson for the defendants.

JUDGMENT

THE DEPUTY BAILIFF: This matter came before the Court, differently constituted, on the 28th February, 1992. The action is brought by Order of Justice seeking the removal of the defendants from "Charles House", 5 Stafford Gardens, Trinity Hill, St. Helier, which is let by the plaintiff to Silva Yates (Plastics) Limited, a company which is now 'en désastre', and occupied by the defendants under what is known as a 'category j licence'. That is to say that the Housing Committee of the States recognised the first defendant as being essentially employed and thus falling within Regulation 1(1)(j) of the Housing (General Provisions) (Jersey) Regulations, 1970, as amended. As a result of the 'désastre', the first defendant lost his employment, and

his licence to occupy the property. The plaintiff seeks an order for possession.

That the Court has an inherent jurisdiction to grant a delay of execution is not disputed (see de Carteret -v- Applegate and Sheridan (1985-86) JLR 236 CA).

Delays granted by the Court appear to run between three weeks and three months. In three cases which are very similar, i.e. claims by a landlord for possession against the licensee of a former tenant, the delay granted was three months or twelve weeks (see Gibaut -v- Stoodley (1969) 257 Ex. 508 unreported; Spearman -v- Le Vaast (1969) 257 Ex. 567 unreported; and de Carteret -v- Applegate and Sheridan (1985-86) JLR 236 CA).

Mr. Journeaux asks that we limit the delay in this case to a maximum of two months having regard to the defendants' apparent inability to pay compensation equivalent to the rent thereafter. Mr. Robinson asks us to extend the delay to five months, but to limit or reduce the compensation payable by way of rent for the third, fourth and fifth months to £100 per week or a little less than one-half of the agreed rent.

The Court has decided to follow the precedents of which it is aware and grant a delay of the order of three months or twelve weeks. Whilst the Court has considerable sympathy for the defendants, justice does not entitle us to cast further hardship upon the plaintiff.

We therefore grant two phases of delay - firstly a delay of two months to the 28th April, 1992, subject to the payment of the damages or compensation already provided for between the parties; and secondly a further delay of four weeks from the 28th April, 1992, subject to a weekly payment in advance by the

defendants to the plaintiff of £200 by way of damages or compensation.

The Court authorises the officers of the Viscount's Department to summarily and without further order evict the defendants from the premises at the expiry of the four week period referred to or earlier if any of the said weekly payments of £200 each remains unpaid.

The defendants shall pay to the plaintiff the costs of and incidental to the present proceedings on a taxation basis.

Authorities

de Carteret -v- Applegate and Sheridan (1985-86) JLR 236 CA.