

EXETER CITY COUNCIL v SANDLE [2011]

QBD (Admin) (Collins J) 16/5/2011

ROAD TRAFFIC - LOCAL GOVERNMENT

LOCAL GOVERNMENT : OPERATORS' LICENCES : RENEWAL : TAXIS : TIME LIMITS : RENEWAL OF HACKNEY CARRIAGE LICENCE : LAWFULNESS OF RENEWAL OF EXPIRED LICENCE: TEMPORAL LIMITATION ON SUCH RENEWAL : s.60 LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 : s.43 TOWN POLICE CLAUSES ACT 1847

A hackney carriage licence was capable of renewal in the sense envisaged by the Local Government (Miscellaneous Provisions) Act 1976 s.60 after the expiration of the one-year period prescribed by the Town Police Clauses Act 1847 s.43. There was no particular period in which it would cease to be capable of renewal but an application received two to three days late would require very good reasons for the delay for it to be entertained by a local authority; delay beyond that would require exceptional circumstances.

The appellant local authority appealed by way of case stated against a decision of a Crown Court that it should have renewed a hackney carriage licence that it had granted to the respondent (S). A condition attached to the licence stated that an application to renew it could not be made until 14 days before it was due to expire and could be made up until the day before it was due to expire. The individual deputised by S to renew his licence had a sick child and through being distracted with that matter and the intervention of a weekend the application to renew was made one day late. The local authority refused to either renew S's licence or grant him a new one. The Crown Court held that notwithstanding that S's licence had expired it was capable of being renewed and ought to have been renewed. It also held that in the circumstances a new licence should be granted to S. The questions were (i) whether a hackney carriage licence was capable of renewal in the sense envisaged by the Local Government (Miscellaneous Provisions) Act 1976 s.60 before the expiration of the one-year period prescribed by the Town Police Clauses Act 1847 s.43; (ii) whether such a licence was capable of renewal in the same way after the expiration of that one-year period and, if so, when it ceased to be so capable.

HELD: The word "renew" quite properly could mean "granted afresh" so that it permitted a licence to be granted as a new licence. That was a perfectly normal use of the English language; for example, if one forgot to renew a driving licence before it expired one would say, "I must renew my driving licence". The chief concern expressed by the local authority was that there was a queue of applicants for new licences and that if no application to renew was made in time and it then granted a licence to a new applicant it would find itself in difficulties if late applications for renewal were allowed. The answer to that fear was to impose a condition on the grant of a licence so that an applicant had to make an application to renew before the licence had expired and if he did not do so his application was likely to be rejected unless he had a very good reason for his failure. It was appropriate for a local authority to wait two to three days before it granted a new licence to another party. It would be for an applicant to show that very good reasons existed for his late application for renewal. It would be appropriate for a local authority that processed applications by mail to take account of postal difficulties that might exist. Accordingly, it was appropriate to answer yes to both questions. In relation to the second question, there was no particular period but only in exceptional circumstances would an application for renewal be entertained after a delay of two to three days.

Appeal dismissed

Counsel:

For the appellant: Joss Ticehurst

For the respondent: No appearance or representation

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