

Mr Stióbhart Matulevicz - v - North Yorkshire County Council (with Scarborough)

Appeal Details

Case number:	YN00036-1907	Appeal Raised:	22/07/2019
Vehicle:	J885KCP	Hearing:	There was no hearing
Representative:	N/A	Decision:	16/08/2019
Number of PCNs:	1	Adjudicator:	Maggie Kennedy

Decision - PCN YN07206999

Mr Stióbhart Matulevicz, you have won this appeal.

There is nothing to pay and the authority will cancel the penalty charge

This is because the alleged parking contravention did not occur.

This is because the authority made a procedural error.

Issued: 26/04/2019

Contravention: 26/04/2019 12:37

Brunswick Street Whitby

35 - Parked in a disc parking place without clearly displaying a valid disc

Please see the next page for the Adjudicator's Reasons

Adjudicator's Reasons

Mr Matulevicz appeals against this penalty charge for several reasons, all set out in a detailed document which had previously been sent to the Council although they say they did not receive it. He had also sent detailed submissions, albeit without images or annotations, in his informal representations made shortly after the incident occurred.

Mr Matulevicz explained to the Council that he had rented a holiday cottage for a few days and as part of the deal also purchased a permit to park nearby. It was a scratchcard type which, on its face, was described as a "4 Day Scratch Card Holiday Accommodation Visitor Parking Permit". It was marked "no 5" reflecting the number of the cottage in which he was staying. He parked his vehicle outside the cottage in one of the marked bays and displayed the permit. The following morning he discovered the penalty charge notice (PCN).

The PCN had been issued for parking without the display of a parking disc. The civil enforcement officer (CEO) took a photograph of the sign:



Mr Matulevicz made several pertinent observations in his informal representations, including the position and angle of the signage, the informal addition of the letter "H" to the disc zone sign, and the taping over of part of the middle sign.

The Council responded, in part, with these words:

I note your comments. However, the signs and their placement are those prescribed by the Department for Transport. All signs used in a controlled parking zone have to conform to The Traffic Signs Regulations and General Directions 2016.

The middle sign stating "No permits or scratchcards" is not a prescribed sign within the Traffic Signs Regulations and General Directions 2016 (TSRGD), and does not appear to be a permitted parking expression in accordance with Schedule 18 of the TSRGD. The Council produce no evidence of their having any special authorisation from the Secretary of State to use this sign. I conclude that its use is unlawful, at least for the purposes of issuing and enforcing a PCN.

Mr Matulevicz subsequently sent to the Council more detailed representations in a .pdf document attached to a very brief email. The Council responded to it stating "We have considered your representations ... and have taken into account everything you say" before going on to say that the .pdf was not attached. It is unclear why they did not ask Mr Matulevicz to send a further copy.

Adjudicator's Decision

I have seen that Notice of Rejection only because Mr Matulevicz included it with his appeal submissions: the Council neglected to send a copy at all despite it being a mandatory document for councils to produce in appeal cases.

I need not deal with the detailed points set out by Mr Matulevicz as his appeal must be allowed both because of the unlawful signage and the Council's procedural impropriety. That procedural impropriety arises both from what must amount to their failure to consider representations they said they had both seen and not seen, and in failing to produce the Notice of Rejection.

Maggie Kennedy

Adjudicator

16/08/2019