



Neutral Citation Number: [2026] EWHC 800 (KB)

Case No: K29YX350
Appeal No: KA-2024-LDS-000028

IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION
LEEDS DISTRICT REGISTRY

Leeds Combined Court Centre
1 Oxford Row, Leeds, LS1 3BG

Date: 01/04/2026

Before :

THE HONOURABLE MR JUSTICE TURNER

Between :

ECO GREEN CAPITAL LIMITED
- and -
ANGELA WETZEL

Claimant/Respondent

Appellant/Defendant

- and -

SHCE LIMITED
T/A THE SHERIFF'S OFFICE

Third Party Intervenor

Annette Thomson (instructed by **Freeths LLP**)
for the **Claimant / Respondent**

Matthew R Smith and **James Wilson** (instructed by **Best Solicitors Limited**)
for the **Appellant / Defendant**

The **Third Party Intervenor** not appearing

Hearing date: 25 March 2026

JUDGMENT

This judgment was handed down remotely at 10.30am on 1st April 2026 by circulation to the parties or their representatives by e-mail and by release to the National Archives.

The Hon. Mr. Justice Turner :

BACKGROUND

1. The respondent to this appeal (to which I shall hereafter refer as “the claimant” for the sake of convenience and consistency) is a company specialising in the installation of renewable heating systems.
2. The appellant (to whom I shall hereafter refer as “the defendant”) is the registered proprietor of a property in Bolsterstone which is a village in South Yorkshire.
3. On 1st September 2015, the claimant and defendant entered into a lease agreement under the terms of which the claimant agreed to install and thereafter maintain heating equipment at the defendant’s property at what had been intended to involve no direct cost to her. The defendant would receive Renewable Heat Incentive Payments from Ofgem (to which she was entitled under the Domestic Heat Incentive Scheme Regulations 2014 as a government financial incentive to promote the use of renewable energy). The value of such payments was, in turn, to be paid over by the defendant to the claimant in consideration for the installation and maintenance of the equipment.
4. However, during the course of the operation of the agreement, and for reasons which were never satisfactorily explained to me, the defendant ceased to continue to comply with the formalities required by Ofgem as a precondition for making the payments. Ofgem therefore ceased to make the payments. As a consequence, subject to any other defences she might have had, the claimant became personally liable under the agreement to make the payments to the defendant herself. This she did not do.
5. On 25th May 2023, therefore, the claimant issued a claim against the defendant alleging that she had breached the terms of the agreement and claiming the sum of £81,550.81 by way of damages or debt.
6. On 2nd June 2023, the claim form and Particulars of Claim were purportedly served by the Court by first class post at the address set out on the claim form, namely:
Ms Angela Wetzel,
Waldershaigh,
Bolsterstone,
Sheffield,
S36 3ZF
7. CPR 10.3 and 15.3 provide that a defendant must file an Acknowledgement of Service or Defence within 14 days after service of the Particulars of Claim. Accordingly, if the claim form were validly served, the defendant had until 16th June 2023 to respond.

8. In the absence of any such response from the defendant, the claimant eventually obtained judgment in default on 27th November 2023.
9. On 19th February 2024, the claimant obtained a writ of control.
10. On 25th April 2024, High Court Enforcement Officers (“HCEOs”) attended at the defendant’s property to enforce against her goods. Various items were seized, including two cars.
11. In response, the defendant instructed solicitors who proceeded to issue: an application to Stay Execution of the Writ on 2nd May 2024 and; an application to Set Aside Judgment on 8th May 2024.
12. These applications were listed to be heard before His Honour Judge Hanbury (“the judge”) on 28 August 2024. He refused the applications and awarded the claimants their costs summarily assessed in the sum of £18,952.80.
13. It is against this decision that this appeal comes before me with the leave of the single judge.

THE FIRST ISSUE

14. The first issue to be resolved by the judge was whether the claim form was correctly addressed.
15. The defendant argued that it was not and contends that her address for service was:
Waldershaigh,
Heads Lane,
Bolsterstone,
Sheffield,
S36 3ZF
16. The difference is the omission of “*Heads Lane*” in the address appearing on the claim form.
17. CPR 6.6(2) provides:

“Where to serve the claim form – general provisions

6.6...

(2) The claimant must include in the claim form an address at which the defendant may be served. That address must include a full postcode, unless the court orders otherwise.”

18. CPR PD 16 provides, in so far as is material:

“The claim form

2.1 The claim form must include an address (including the postcode) at which the claimant lives or carries on business, even if the claimant’s address for service is the business address of their solicitor.

2.2 Where the defendant is an individual, the claimant should (if able to do so) include in the claim form an address (including the postcode) at which the defendant lives or carries on business, even if the defendant's solicitors have agreed to accept service on the defendant's behalf.

2.3 If the claim form does not include a full address, including postcode, for all parties the claim form will be issued but retained by the court and not served until the claimant has supplied a full address, including postcode, or the court has dispensed with the requirement to do so. The court will notify the claimant."

19. CPR 6.9 provides that where, as here, the defendant does not give an address at which the defendant may be served then, in the case of an individual, the place of service is his or her usual or last known residence.
20. The defendant relies upon the fact that, according to the HM Land Registry, the land and estate comprised in the title of the defendant's property includes the reference to Heads Lane. It is argued that it must follow that any deviation from this address is fatal to compliance with CPR 6.6(2).
21. I disagree.
22. Where, as here, the claimant entrusts the court to send the claim form by first class post, the court will, in the normal course of events, simply post the form using the address recorded by or on behalf of the claimant on the claim form. Where no address or no address compliant with CPR 6.6(2) appears on the claim form, the form will still be issued pursuant to CPR PD 16 para 2.3 but not served until the necessary details are provided or the court dispenses with the requirement. This means that a claimant can issue a claim form without contemporaneously identifying an address for service. This is doubtless particularly important in cases in which the limitation period is close to expiry.
23. The purpose of the rule is, therefore, to enable the court to send the form to the defendant's usual or last known address as identified by the claimant. The central question must normally be whether the details furnished by the claimant to the court on the form provide a unique and readily ascertainable identification of such address. Whether or not a street name is required to achieve this will be fact sensitive and not, as the claimant seeks to argue on this appeal, mandatory in all cases. Indeed, by no means all properties, particularly in rural areas, have street names as part of their address. In such cases, the name of the house and the identity of the village where it is located will, together with the postcode, provide all the necessary information. In contrast,

- other properties will not have a name but will be readily identifiable by a number and street name with, again, the correct postcode.
24. This explains why it is only the postcode which is a mandatory component of the address to be provided on the claim form. The type of other descriptors will necessarily vary from case to case.
 25. In this case, I am satisfied that it was unnecessary for the “*Heads Lane*” line in the address to be included on the claim form.
 26. A search on the Royal Mail’s website reveals that the postcode given for the claimant’s address as recorded on the claim form is correct. There are only nine properties falling within the area covered by that postcode. Every single one of them is identified to be located on Heads Lane. There are no street numbers for any property. Each is, therefore, uniquely identified by name. In addition to Waldershaigh, where the defendant lives, there is Waldershaigh Farm and Waldershaigh Cottage. There are, therefore, similarities to these names but this does not assist the defendant on the issue of compliance with the requirements of CPR 6.6(2) because the inclusion in the address of Heads Lane would not make it any easier to differentiate between these three properties because they are all located on Heads Lane.
 27. In the unlikely event that those responsible for drafting the rules had intended to introduce an entirely unnecessary and technical layer of formality, it would have been easy enough to draft them to achieve this. It would, however, run the risk that any, even wholly immaterial, deviation from the address appearing on the Register of Title would have the potential to jeopardise the validity of the entire process and thus defeat the overriding objective to deal with cases justly and at a proportionate cost.
 28. I am also sure that not only was the claim form properly addressed but, for reasons set out later in this judgment, that it was also physically posted to the defendant at her usual address.
 29. Accordingly, judgment was regularly entered regardless of whether or not she had actually opened the letter containing the claim form or read its contents (see *Akram v Adam* [2005] 1 W.L.R. 2762).

THE SECOND ISSUE

30. The consequence of my finding that judgment was properly entered is that the onus then shifts to the defendant to persuade the court to set it aside. The relevant provision is contained in CPR 13.3:

“Cases where the court may set aside or vary judgment entered under Part 12

(1) In any other case, the court may set aside or vary a judgment entered under Part 12 if –

- (a) *the defendant has a real prospect of successfully defending the claim; or*
 - (b) *it appears to the court that there is some other good reason why –*
 - (i) *the judgment should be set aside or varied; or*
 - (ii) *the defendant should be allowed to defend the claim.*
- (2) *In considering whether to set aside or vary a judgment entered under Part 12, the matters to which the court must have regard include whether the person seeking to set aside the judgment made an application to do so promptly.”*

(Rule 3.1(3) provides that the court may attach conditions when it makes an order.)

31. It will be seen that CPR 13.3(1) provides a threshold to be surmounted by the defendant before the court is entitled to proceed to consider the exercise of its discretion. In the circumstances of this case, it is agreed that the defendant must show that she has a real prospect of successfully defending the claim. It is not argued, on the facts before me, that there is any freestanding “*good reason*” falling within CPR 13.3(1)(b) which falls for further consideration.
32. The judge attempted no analysis of the defendant’s prospects of successfully defending the claim in the event judgment were to be set aside. Instead, he identified “*promptness*” as the first hurdle and one which the claimant had failed to get over. On a true construction of the rule, however, the first hurdle was not “*promptness*” but establishing a real prospect of success and, upon this test, the judge made no express adjudication. However, I infer from his approach that he must at least have been prepared, for the sake of argument, to assume that the “*real prospect of success*” criterion had been fulfilled.
33. Out of an abundance of caution, the claimant sought to introduce, by way of a Respondent’s Notice, the question of whether the “*real prospect of success*” criterion had, in fact, been fulfilled. This was on the basis that, if successful on this issue, the court would have no residual discretion to exercise and the claimant would win without the need for any further exploration of the questions of promptness or the **Denton** three stage test.
34. As a result, I heard more detailed and focussed submissions on the merits of the defence than did the judge below. These submissions were

directed at a rather diffusely worded draft defence which raised no counterclaim for damages but relied upon alleged regulatory defaults, misrepresentations and breaches of contract as grounds for repudiation or rescission. The defendant also served a report from an expert who was critical of the installation and performance of the equipment provided under the agreement.

35. The substantive legal merits (or, rather, alleged demerits) of this draft pleading were dealt with in no fewer than 67 paragraphs of the claimant's skeleton argument on this appeal.
36. I have concluded that, although I entertain serious doubt about what the defendant's prospects of substantive success in defending the claim would have been, it would be disproportionate to embark upon a detailed consideration of each and every contention raised in the draft defence. As with an application for summary judgment, the court must not be tempted to fall into the trap of conducting a mini trial. Bearing in mind that the defendant realistically concedes that the defence raised in this case does not mean that she would otherwise inevitably succeed, I proceed on the basis that I will accept that a triable issue has been raised and go on to consider the issue of promptness and the *Denton* three stage test. There is no need to predict with any greater attempt at accuracy the chances of substantive success, my decision in this case would be the same wherever on the spectrum of assessments it might otherwise lie.
37. The test to be applied in adjudicating on an application to set aside judgment under CPR 13.3 was recently (and in my respectful view accurately) set out in *Thiscompany Limited v Welsh* [2024] EWHC 2159 (Comm) at paragraph 17:

"The parties do not disagree about the law applicable to applications of this kind. It is now settled that an application to set aside default judgment is an application for relief from sanctions: FXF v English Karate Federation Ltd [2023] EWCA Civ 891 at [63] per Sir Geoffrey Vos MR. The Court should first consider the matters set out in CPR 13.3 (the merits of the case and the delay in making the application). Whether the defendant has a real prospect of successfully defending the claim is a threshold condition: see Gama Aviation (UK) Ltd v MWWMMWM Ltd [2021] EWHC 2229 (Comm). If that threshold is crossed, whether to grant the application is a discretionary question, and the Denton test is engaged. That involves (a) identifying and assessing the seriousness and significance of the breach, (b) considering why the default occurred, and (c) evaluating all the circumstances of the case, including the factors set out in CPR 3.9.

“What is critical, however, I can repeat once again for yet further emphasis, is the need to focus on whether the breach has prevented the court or the parties from conducting the litigation (or other litigation) efficiently and at proportionate cost, and the need to enforce compliance with rules and orders.”: FXF at [67]... ”

38. The judge below made no reference to **Denton** but exercised his discretion with reference to promptness alone. I have every sympathy for him. The hearing before him had gone over its estimated length and he was under considerable time pressure. His judgment was ex tempore. It is regrettable that no transcript of his judgment was available but a careful note was taken by counsel and no material challenge is raised as to its accuracy.
39. There can be no doubt that the delay between 16 June 2023 when the time for service of an Acknowledgment of Service or defence expired and 8 May 2024 when the application to set aside judgment was made was very long indeed. This was clearly far from prompt and also amounted to a very serious and significant breach. However, in this context, the second limb of **Denton** fell to be addressed. Why did the default occur?
40. The judge made no explicit finding but his conclusions may be inferred with some confidence from his observation that:
- “...the first occasion on which the Defendant states that she knew about the Judgment was when bailiffs attended at her property to enforce a writ of control.” However: “the webcam evidence is revealing in respect of how the Applicant deals with her post.”*
41. In essence, the central issue between the parties was whether the claim form had ever been physically posted at the defendant’s address. If not, the defendant would be innocent of all blame for failing to respond to it. The obvious alternative scenario was that, although it had been posted, she had ignored it and simply left it unopened.
42. In my view, the evidence was overwhelming that the claim form had indeed been posted through the letter box of the defendant’s address and she had ignored it. I note the following:
- (i) The claim form was addressed to a clear and unique address of the house which was undoubtedly where the defendant lived;
 - (ii) It was not returned undelivered;
 - (iii) The pre-action letter, a follow up letter and the letter enclosing the judgment were also not returned undelivered;

- (iv) In contrast, four earlier letters sent by recorded delivery to the defendant's address in 2018 and 2019 were all signed for by her;
 - (v) The HCEO's found the property easily enough after making a discreet enquiry of a neighbour;
 - (vi) The defendant was sufficiently confident in the sufficiency of the address recorded on the claim form routinely to deploy it herself on several documents pertaining to the contract in respect of which this action was brought including: the form of notice; the guarantee; Ofgem's joint ownership authorisation letter; the declaration of conformity and the letter of intent;
 - (vii) There is no evidence that any third party had any difficulties in locating the address to carry out work there pursuant to the agreement or otherwise.
43. However, there is an important freestanding factor relating to evidence of what was discovered inside the defendant's address when the HCEO's arrived. It was this factor to which the judge below made explicit reference in his judgment and I can readily understand why.
44. The HCEO agents who attended the property have released screenshots of body worn camera films taken at the time. They reveal piles of papers and unopened envelopes heaped up in the kitchen. The defendant called Mr Sharp of the South Yorkshire police to come to the property when the HCEO's arrived. He later told the claimant's solicitor that he too had seen the piles of papers and unopened post and found, for example, an unopened parking charge notice which had already expired.
45. In a witness statement dated 24th August 2024, the defendant deals with this obviously important issue with surprising brevity stating only:
- "I am aware that it is suggested that I had some unopened post on my table and in my postbox and I admit that there was a few letters that I had not collected, however, I completely deny that there were piles of unopened post lying around. This is simply untrue."*
46. She made no attempt, either then or since, to explain what is depicted in the still photographs. Her reference to "*a few letters that I had not collected*" would appear, without further elaboration, to refer to the contents of the postbox and not the heaps of unsorted papers including unopened post cluttering her kitchen. She does not say for how long and why letters had been left unopened. She makes no reference to the evidence of Mr Sharp and fails to contradict his account of finding the unopened parking notice. She does not suggest that she carried out any search amongst those papers depicted in the photographs to see if the claim form might be lurking amongst them. She merely asserts, without

further elaboration, that she received no court documents or letters about the claim. The point is made that Mr Sharp's evidence is hearsay. However, that does not render it inadmissible. In particular, he had no discernible motive to conceal or misrepresent matters.

47. I am entirely satisfied from the above that the claim form was delivered at the defendant's home and that she simply did not open it.
48. The judge did not, and was not invited to, conclude that the defendant was deliberately lying to the court. It would thus have been unusual for her to be called upon to give oral evidence which, in any event, would, in chief, be expected to be limited to the bald and inadequately particularised assertion to which I have already made full reference.
49. The fact that the HCEO file was not produced takes the case no further. There is no basis upon which it may be thought that the contents would be of any assistance to the defendant and, in any event, it would have been open to her to obtain the file with a view to relying upon its contents on this appeal.
50. The application of the second stage of the three stage test in Denton provides, therefore, a wholly unsatisfactory reason for the serious breach of the rules.
51. Finally, I must evaluate all the circumstances of the case, including the factors set out in CPR 3.9.
52. I am not without some sympathy for the defendant. She clearly faces challenges in dealing with the burden of opening her post and has found temporary refuge in ignoring it. Nevertheless, her breach has prevented both the court and the parties from conducting the litigation efficiently and at proportionate cost. It is now nearly three years since these proceedings commenced and the progress of the litigation has become enmired by the procedural consequences of her default and given rise to the expenditure of tens of thousands of pounds in costs.
53. It follows that not only was the decision of the judge below not vulnerable to challenge on appeal but that this court would have reached the same conclusion. This appeal is dismissed.
54. I would expect that any ancillary matters such as costs could, if otherwise unresolved, be determined on paper.