

Neutral Citation No. [2011] NICty 1

Ref:

Judgment: approved by the Court for handing down  
(subject to editorial corrections)\*

Delivered: 27/01/11

**IN THE COUNTY COURT FOR THE DIVISION OF BELFAST**  
**SMALL CLAIMS COURT**  
**BY THE DISTRICT JUDGE**

Case Number 10/147125

MARTIN McAFEE

Applicant

And

PAUL COOK

Respondent

District Judge (County Court) Wells

1. In this Small Claim the Applicant appeared in person and gave his evidence orally. The Respondent, who lives in Hull, England, indicated that he had chosen not to travel to court, but sought to give his evidence by way of statement in his Notice of Dispute. (He had also asked if it was possible to “arrange . . . for [him] to telephone conference into the courts”. This was unfortunately not possible.
2. I have no problems with weighing the Respondent’s case from the Notice of Dispute and draw no inference whatsoever by his failure to attend. Indeed, I challenged the Applicant with the Respondent’s case.
3. The proceedings commenced by an on-line Application on 17<sup>th</sup> November 2010; the Notice of Dispute is dated 8<sup>th</sup> December and I heard the matter on 25<sup>th</sup> January 2011. The Applicant claimed £1080 being a refund of monies (£530.00) paid by him for a product supplied by the Respondent and related costs.
4. Much of the evidence was quite technical and there was much jargon and many acronyms to deal with. I regret if I misinterpret any of these. I found the following facts.
5. The Applicant trades as HRD Services. He provides training development to clients, sometimes in the workplace, other times in a classroom. He also provides courses on-line. The Respondent trades as PCM2U - he provides software access for VLE (perhaps Virtual

Learning Environment/Education) and Moodles (which is/are a free open-source software) for distance learning.

6. On 18<sup>th</sup> August 2010 the Respondent introduced his business to the Applicant by e-mail saying that he can set up: -
7. "A moodle for PTTLS, CTLLS, and DTLLS with all relevant resources needed for the students to complete the course online"
8. A demonstration moodle was available. The Applicant tried this moodle and it seemed that the package would be very suitable for his purposes as he wished to develop his Lifelong Learning Sector - otherwise 'LLS'.
9. The Applicant bought the package for £400.00 and got access to the moodles. While most of the resources for the PTTLS (the basic level course) were available to the Applicant and his students, the examining body, and the External Verifier (Excel) required the Applicant to put in additional materials to meet the curriculum standard. The Respondent says that this shortfall is due to the inexperience of the Applicant in delivering these LLS courses. He says that the applicant must input matters. He offered to do this for an additional fee.
10. Some time later he found out that the CTLLS and DTLLS moodles fell far short of including all relevant resources referred to in the e-mail of 18<sup>th</sup> August and thereby, the contract.
11. Again the Respondent puts this down to the Applicant's lack of understanding of the requirements of the LLS courses.
12. These assertions by the Respondent do not sit easily with the offer by him to supply:
13. "a moodle for PTTLS, CTLLS, and DTLLS with all relevant resources needed for the students to complete the course online"
14. I am satisfied that these moodles did not come with "all relevant resources" and that students could not have completed their courses online or otherwise.
15. The Applicant produced much evidence of costs and expenses incurred by him for work carried out by a software designer transferring material, creating back-ups, importing data due to errors, which needed removing, re-patching and re-installing and many, many other processes.

16. The Respondent also supplied to the Applicant a "Lightwork" (some sort of software or 'app' that assisted the teacher (the Applicant) to mark assignments). This had cost £130.00. This also did not work and the software designer, engaged by the Applicant spent time and toil endeavouring to get the Lightwork to function.
17. I noted that the Respondent tendered a cheque to the Applicant for a refund of £530, being £400.00 for the moodle and £130 for the Lightwork. The applicant claimed further sums including £190.00 to his software designer. I am satisfied that he is entitled to recover this sum; he also claimed for legal fees incurred in the matter but I do not allow this additional amount.
18. Accordingly I grant a decree against the Respondent in the sum of £720.00, together with the court fee of £100.00.