

Dr Ian Jackson (claimant)
vs
Dell Corporation Limited (defendant)
in the Cambridge County Court

PARTICULARS OF CLAIM

9th May 2013

1. Summary

Dell and I agreed a fixed fee repair for my out-of-warranty laptop. After I had paid and Dell had collected the computer, Dell contacted me to ask for more money. Dell said if I didn't pay they would send the machine back unrepaired and keep my money. Dell pressurised me into paying an additional £104.05. I now claim the return of that extra money.

2. Narrative

- 2.1. On the 12th of April I dropped my out-of-warranty Dell Latitude 2120 laptop computer. The screen stopped working reliably, and then, stopped working at all.
- 2.2. On the 15th of April I phoned Dell to enquire about a repair. During the conversation I explained that I had dropped the laptop and described the symptoms. I explained that the machine seemed to be mostly working apart from the screen, as I was able to log into it remotely via the network. I also mentioned that the battery catch had been damaged by the fall.
- 2.3. Dell engaged, with my help, in some over-the-telephone diagnosis which wasn't entirely conclusive. Dell explained that it wasn't clear whether the fault with the display was due to damage to the mainboard, the screen, and/or the screen connecting cable.
- 2.4. Dell discussed with me two repair options. One was a 10-12 day collect and return repair service; the machine would be sent back to Dell's workshops for diagnosis, and whatever the responsible faulty components were found to be would be repaired or replaced. I understood this to be a fixed fee service.

- 2.5. I explained that I had replaced the wifi card with a different make and enquired whether that would be a problem. Dell said that I would have to find and refit the as-supplied card.
- 2.6. I also asked whether it would be all right for me to remove the hard disk before sending the machine back. Dell said that would be fine although of course if the hard disk had suffered damage in the fall it wouldn't then be fixed as part of the repair, and it wouldn't be covered by the repair warranty.
- 2.7. Since I said I wasn't sure I could find the original wifi card, Dell discussed with me another repair option: an on-site visit by one of Dell's technicians. Dell explained that the technician would have with them only spare mainboard, screen, screen cable and bottom case assembly (of which the battery latch is part). Dell warned me that if other components were needed, which the technician didn't have with them, the repair would not be completed and I would have to pay more, and have another visit by the technician, if I wanted the repair done.
- 2.8. Dell sent me an emailed PDF quote for the second (onsite) repair option.
- 2.9. Later that day I was able to locate and refit the original wifi card. I emailed Dell to confirm my understanding of the basis of the first of the two repair options (the collect and return option), and to ask to go ahead with it. As I wrote:
- I would like to go ahead with the collect-and-return repair, rather than the onsite repair. On the phone, if I recall correctly, you quoted me around L175 including VAT, and confirmed that this would fix anything else that was wrong as well as the known faults (the screen not working and the damaged battery hook arrangement).*
- I have located the original wifi card which I will refit; I will remove the hard disk (and, as you said, accept the risk that if the hard disk turns out to have been damaged it wouldn't be covered by the warranty on the repair).*
- 2.10. In reply Dell sent me an emailed PDF quote for the first (collect and return) option. This quote was expressed to be for "Out-Of-Warranty CAR with parts - Client Repair" and "Out of Warranty - CID - Physical Damage".
- 2.11. Dell duly took my credit card authorisation (for £174.65) by phone, and arranged for the

laptop to be collected on Tuesday the 16th.

- 2.12. On the 19th of April Dell emailed me to say they wanted to talk about liquid damage they had found in the computer. Dell said they'd tried phoning without success. I was unwell, and emailed Dell to ask them to try again on Monday the 22nd.
- 2.13. My illness was more severe than I anticipated; I was laid up in bed for four days and didn't go back to work until even later. So on Monday the 22nd, from my sickbed, I asked to have the conversation by email as I find that a lot less stressful than phone calls.
- 2.14. During these emails Dell asked for an additional £86.71+VAT, explaining that more parts than expected needed to be replaced. Specifically Dell stated that the mainboard and palmrest unexpectedly needed replacing, saying that I had only paid for replacement of the screen and bottom cover.
- 2.15. I replied to say that the "liquid damage" could only have been a spill which occurred many months previously, and after which the machine had been functioning fine until I dropped it. I explained that I felt we had an agreement for a fixed fee repair and didn't want to pay more. I did say of course that there was no need in my opinion to replace any components, allegedly "liquid damaged" or not, which were working fine.
- 2.16. Dell offered to replace only the bottom cover and the screen cable, asserting that I had only paid for those parts to be replaced, but warned me that that might result in Dell returning me the computer in a still non-working state.
- 2.17. After a further fruitless exchange of emails, Dell insisted on having a telephone call. This was a very difficult conversation. I felt that with such a "misunderstanding" having already occurred, it would be better to do things in writing, and in any case I still wasn't well and found the phone call very stressful.
- 2.18. In fact the phone call was so difficult, with Dell insisting on restating orally at length the same points they had already made in their emails, that I terminated it. Dell phoned back about 10 minutes later.
- 2.19. During this second phone call Dell explained to me that unless I agreed to pay more money, they would send me the machine back unrepaired and keep the money I had already paid. I said that I would pay under protest, but this itself caused some difficulty. There followed

a very difficult conversation. I wanted to have a clear record of what was said, given that we had already had “misunderstandings”.

2.20. After a good deal of to-and-fro I was able to find a form of words that satisfied Dell, sent to them by email while we were still on the phone:

You said on the phone that you require further confirmation from me regarding the additional fee.

As I wrote:

You just explained to me on the phone that you were offering me two options: The first is that I would pay this additional L104.05 now. You will then complete the repair to the laptop and send it back to me. The second is that you would return the laptop to me unrepai red, and keep the money I have paid so far.

Of these options, I would like to pay the additional L104.05.

So please go ahead and charge my credit card, taking the details by phone.

2.21. Dell then took my credit card authorisation for a further £104.05.

2.22. Aside from automatic emails from Dell, I had no further communication with them. The “Quote” PDF for the additional money is expressed to be for “Out of Warranty - CID - Physical Damage”.

2.23. However on the 4th of May I received the computer back and it appears to be working fine.

3. Analysis

3.1. Dell agreed to do a fixed fee repair, but after taking my money refused to do the repair without a further payment. That was a clear breach of our agreement.

Our agreement was for a fixed fee repair, all parts included:

3.2. This is what was explained by Dell in our first telephone call. When discussing the collect-and-return repair, there was no mention of any limitation of the parts which might

or might not be included.

- 3.3. It was also reconfirmed in my email (12:22 BST on the 15th of April) in response to which Dell sent a new quote PDF and phoned me to take payment. I reconfirmed my understanding by email specifically because the earlier phone call was very long and wouldn't provide a convenient record of what was agreed, and to be sure that I had properly understood what Dell were offering and give Dell the opportunity to correct me if not.
- 3.4. It might be argued that my failure to mention a months-old liquid spill, following which the machine had worked fine, was unwise. However Dell didn't ask whether the machine had suffered any other insults. And in any case there was no requirement for Dell to replace any of the parts which may have had months-old liquid residues but were nevertheless in working order.
- 3.5. The quote PDF Dell sent me as part of confirming our arrangement doesn't go into any detail about the basis of the repair, but it does mention "parts". It doesn't explain any limitation on which parts, so it's not consistent with Dell's later emails claiming that I had only paid for certain parts to be replaced.
- 3.6. After Dell had collected and examined the machine, Dell were even not clear themselves what parts exactly they thought I had paid for. Sometimes it's the "bottom plastic" and "LCD" (the screen); sometimes only the "bottom plastic" and "LCD cable". Of course neither of these formulations can possibly have been right because during our initial telephone call we weren't sure whether the lack of display on the screen was due to damage to the screen, the cable, and/or the mainboard. And in the event Dell didn't in fact replace the screen.
- 3.7. Even during pre-action communications, following my letter before legal action, Dell have been unclear about exactly which parts they assert were covered by the original repair agreement.

My payment of the additional money does not constitute agreement that Dell were entitled to it:

- 3.8. As I made clear, my payment of the additional money to Dell was made simply to get Dell to repair the laptop as originally agreed and paid for. Dell shouldn't have demanded it and I didn't get anything for it that I wasn't already entitled to.

- 3.9. My agreement to pay it was on the basis that Dell said they would otherwise return the laptop unrepaired and keep my money. That would have left me without the repair to which I was entitled, probably for a substantial period of time while I pursued my dispute with Dell. In that case my eventual claim against Dell for damages for breach of contract, and the extra effort required on Dell's part to put things right, would have been much larger.
- 3.10. As Dell knew, I was still unwell when they made that threat, and their behaviour on the telephone was quite unreasonable. I felt under duress.

4. Conclusion

- 4.1. Therefore I claim the return of the extra £104.05.
- 4.2. Additionally I claim the court fee of £35.
- 4.3. I claim fixed commencement costs (CPR 2.14(2)(a)(i), CPR 45.2(1)(a) Table 1, i.e. £50) at the 2/3 rate applicable to Litigants in Person (CPR 46.5(2),(3)), so £33.33.