



16/04/2018

POPLA Reference: 

Dear POPLA,

On the 17/02/2018, UK Parking Control Ltd issued a parking charge notice to a vehicle of which I am the registered keeper. The ticket states the vehicle was “parked in a disabled person’s space without clearly displaying a valid person’s badge”.

As the registered keeper, I would like to file an appeal on the following grounds:

- 1) As the registered keeper, I have no liability for this charge, as UK Parking Control has not complied with Protection of Freedoms Act 2012.
- 2) Signage does not comply with the BPA Code of Practice and was not prominent enough to form any contract with a driver
- 3) Road markings ill-maintained and not clearly legible.

1) Protections of Freedoms Act 2012

The Protections of Freedoms Act 2012 Schedule 4 Paragraph 4 states:

“The creditor has the right to recover any unpaid parking charges from the keeper of the vehicle”

However, the creditor must meet the conditions set out in Paragraphs 5, 6, 11 and 12 for the right to recover the charges from the registered keeper. UK Parking Control has failed to meet the second condition (Paragraph 6) of the act which states:

“6 (1) The second condition is that the creditor (or a person acting for or on behalf of the creditor) (b) has given a notice to keeper in accordance with paragraph 9.”

As I have not received a Notice to Keeper, UK Parking Control have failed to comply with the conditions required and as such cannot pursue the Registered Keeper of the vehicle. UK Parking Control has failed to show that the individual who it is pursuing is in fact the driver who may have been liable for the charge.

Where the Register Keeper is the appellant and the operator fails to comply with POFA, POPLA must consider whether they are confident that the Assessor knows who the driver is based on the evidence received. No presumptions can be made about liability whatsoever as a vehicle may be driven by any person where consent of the owner is given and the driver is insured. There is no dispute that the driver was entitled to drive the vehicle and I confirm the driver was entitled to drive, but I exercise my right not to name that person.

2) Signage does not comply with the BPA Code of Practice

The BPA Code of Practice clearly states that:

18.1 "A driver who uses your private car park with your permission does so under a licence or contract with you. If they park without your permission this will usually be an act of trespass. In all cases, the driver's use of your land will be governed by your terms and conditions, which the driver should be made aware of from the start. You must use signs to make it easy for them to find out what your terms and conditions are."

There was no contract established between the driver and UK Parking Control. The basic guidelines of contract law required for a contract to be effective require an offer to be communicated. The signage is impossible to read during late hours, due to the signage not being properly lit. As a result the driver did have a fair opportunity to read about any of the terms and conditions involving this charge. The picture shown below, taken by a parking attendant shows the signage has been lit up by the flash of the camera and no light being emitted from above.



Furthermore, as the BPA Code of Practice also states:

"So that disabled motorists can decide whether they want to use the site, there must be at least one sign containing the terms and conditions for parking that can be viewed without needing to leave the vehicle. Ideally this sign must be close to any parking bays set aside for disabled motorists."

There are also no signs marking disabled parking spaces or signs visible from within the car for which a disabled person may view from within their vehicle.

The nearest signs to the parking space are not immediately obvious as parking terms and the sign is too high to be read at approximately eight foot from the floor, as evidenced in the following photos showing a UK Parking Control parking attendant standing beneath the sign (1) and a second photo showing the nearest signage being approximately twenty foot away from any parking space (2). Due to the distance and height, these signs are impossible to read for wheelchair users.

(1)



(2)



It is believed that UK Parking Control is not complying with the BPA Code of Practice with regard to position and clarity of terms and conditions. Therefore, without clear, compliant signs there was no contract established and therefore no breach of that alleged contract either. Therefore, request that UK Parking Control be required to provide evidence of exactly where the car was and how their signs appeared on that date, with similar lighting to the time of day, from the angle of the driver's perspective. I submit that terms simply cannot be read safely from a car before parking and close-ups of the (alleged) signage terms will not be sufficient to disprove this.

3) Road markings ill-maintained and not clearly legible

As seen in the pictures provided by UK Parking Control (below), it is seen that the parking and disable space markings are worn to the point of being easily missed especially during night hours where the parking spaces are poorly lit. Due to the markings being unclear and poorly maintained without any additional visible signs clearly marking the bay as for use by disable persons only, the disable space could easily be confused for a normal standard bay.



Although not specifically mentioned in the BPA Code of Practice, failing to provide adequate and legible signage could cause a driver to use the parking bay by mistake. This would be a failure on the operator's behalf and would make any terms and conditions relating to disabled parking spaces invalid.

In summary, these points demonstrate the claim by UK Parking Control Ltd is invalid and should the claim continue, further action and evidence requested in this appeal is required from UK Parking Control Ltd.

Yours faithfully,

[Redacted signature]