

COSGROVE

232

THE HIGH COURT

CASE STATED

117SS/1986

BETWEEN:

THOMAS COSGROVE

PLAINTIFF

AND

MARY MOLLOY AND BRIAN MOLLOY

DEFENDANTS

Judgment of Mr. Justice O'Hanlon delivered this 12th day of
May 1986.

As there is no provision in the District Court Rules corresponding to the provisions found in the Circuit Court Rules, providing that a lodgment made with a Defence shall not be disclosed to the Justice before he gives his decision in the case - either the fact that the lodgment was made or the amount of same - I do not regard it as a breach of the rules of procedure of the District Court if the fact that a lodgment has been made or even the amount of the lodgment comes to the notice of the District Justice before he gives his decision.

It is obviously desirable that the practice in the District Court in this respect should be brought into line with the practice in the Circuit Court and the High Court where the

Defendant enjoys the traditional element of secrecy in relation to the amount of the lodgment, and - in the Circuit Court - even as to the fact that any lodgment has been made with the Defence. This could be achieved by an amendment of the existing Rules, and in the interim could probably be achieved by means of a practice direction to be issued by the President of the District Court.

As matters stand, however, I propose to answer the questions posed in the Case Stated in the following manner:-

1. In my opinion, the notice of lodgment in the District Court should state whether the lodgment is made with or without admission of liability. The Defendants failed to do so in the present case, but their omission could be dealt with at this stage by granting leave to amend the notice of lodgment.
2. Having regard to the answer given to Question No. 1, it is unnecessary to answer Question No. 2.
3. As the Rules now stand, it is immaterial at what stage the Justice is made aware of the fact that there is a lodgment and even as to the amount of the lodgment, but it would obviously be preferable if the fact that a lodgment has been made and the amount of the lodgment were not made known to him until after he has given his decision in relation to the claim.



Roderick J. O'Hanlon.

12th May. 1986.