

THE VALUATION TRIBUNAL FOR ENGLAND



Council Tax Liability Appeal; Section 11B Local Government Finance Act 1992; Empty Property Premium; unoccupied and substantially unfurnished dwelling of over two years; appeal dismissed.

RE: 3 Connaught Terrace, Lincoln LN5 8QP

APPEAL NUMBER: VT00000351

BETWEEN:	Mr D Harrison	Appellant
	and	
	City of Lincoln Council	Respondent
	(Billing Authority)	

PANEL: Ms B Knight (Chairman) and Mr M Young

CLERK: Mrs S Morgan

REMOTE HEARING: Tuesday 19 January 2021

PARTIES PRESENT: Mr D Harrison – Appellant

Mrs C Dowd – Billing authority's representative

Summary of decision

1. The appeal was dismissed.

Introduction

2. The appellant had appealed to the Valuation Tribunal against the billing authority's determination that he was liable to a premium of 50% above the normal maximum council tax charge for the period 25 January 2019 to 31 March 2019 and a 100% premium for the

period 1 April 2019 to 5 July 2019. In effect, this meant a council tax charge at a rate of 150% was payable between the January to March dates, and then 200% between the April and July dates, as the appeal property had been unoccupied and unfurnished for a continuous period of more than 2 years.

3. The appeal to the Tribunal was made under section 16 (1) of the Local Government Finance Act 1992 (LGFA 1992).
4. The President of the Valuation Tribunal for England (VTE) is required to make sure arrangements are in place and make such statements and Directions so as to ensure that business before the Tribunal is conducted in accordance with The Local Government Finance Act 1988, Schedule 11, Part 1, paragraph A17(1) and The Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009 and by virtue of Part 2 regulation (5) (arrangement for appeals) and regulation (6)(3)(g) (appeal management powers) the VTE may determine the form of any hearing.
5. Therefore, in pursuance of Regulation (6)(3)(g) the VTE has incorporated “remote hearings” as part of that definition and for the time being as the default option until it is safe to return to normal working. The Tribunal’s Consolidated Practice Statement has been amended to reflect this.
6. This is not intended to be an exhaustive record of the proceedings, but the parties can be assured that all of the evidence presented was fully considered by the panel before coming to its decision. Consequently, the absence of a reference to any statement, or evidence, should not be construed as it having been overlooked.

Issue

7. The issue in dispute was whether or not the billing authority was correct in charging an empty property premium on the appeal property for the period in dispute i.e. 25 January 2019 to 5 July 2019.

Evidence and submissions

8. The billing authority’s representative, Mrs Dowd, outlined the history of events surrounding this appeal. She explained the regime for discounting council tax on empty properties prior to April 2013 and the changes made thereafter.
9. From April 2013 the Government gave authorities the power under section 11B of the LGFA 1992, to levy additional charges for properties which were long-term empty properties. A long-term empty property is one which has been unfurnished and unoccupied for a period of more than 2 years.
10. In effect, from 1 April 2013, a property that had been empty for over 2 years attracted a 50% additional charge. This changed in 2019, when the Government amended section 11B, and increased the maximum additional charge to 100% for the financial year beginning on 1 April 2019. Within the evidence bundle was an extract from the City of Lincoln’s full council meeting held in January 2019, where the resolution was passed on the increased charges for empty properties over 2 years.

11. Mrs Dowd also considered the billing authority's power to award discretionary discounts from the Council Tax in any circumstances that it sees fit, under section 13A(1)(c) of the LGFA 1992, a discretionary reduction. In practice, the billing authority only made such awards in cases of exceptional circumstances beyond the control of the taxpayer or where a person was in exceptional hardship. Mrs Dowd appreciated that Mr Harrison had been unaware of the empty property premium charge. However, this was not an exceptional hardship case, in her view, and therefore she was unable to offer discount under section 13A(1)(c).
12. Mr Harrison, the appellant, explained that the main purpose of his appeal was based on reasonableness. With the aid of photographs, he showed that the appeal property was in a poor state of repair when his company purchased it in January 2019. Mr Harrison said he had no knowledge of the premium charges relating to properties which had been empty for over 2 years. He was happy to pay the standard rate, but considered it was totally unfair and devoid of common sense to pay any additional amount whilst improving the property. Mr Harrison added that he was not trying to avoid paying any council tax but by paying the standard rate, he believed that he was not passing on any significant cost to the taxpayers of Lincoln.

Decision and reasons

13. In this case, the appellant in his capacity as owner of the appeal property, had been held liable for council tax from the date of purchase, 25 January 2019. He had explained that the house needed significant renovation work to make it habitable. In doing so, the appellant believed that it was unfair to be penalised, when he was only trying to transform the dwelling back into a habitable state.
14. Section 12 of the LGFA 2012 introduced provisions into the LGFA 1992 (section 11B) which gave billing authority's the power to set a higher amount for long-term empty dwellings, such a dwelling being defined as a property which has been unoccupied and unfurnished for a period of two years.

"11B Higher amount for long-term empty dwellings: England

(1) For any financial year, a billing authority in England may by determination provide in relation to its area, or such part of its area as it may specify in the determination, that if on any day a dwelling is a long-term empty dwelling—.....

(8) For the purposes of this section, a dwelling is a "long-term empty dwelling" on any day if for a continuous period of at least 2 years ending with that day—

(a) it has been unoccupied, and

(b) it has been substantially unfurnished".

15. The City of Lincoln Council resolved to implement a premium council tax of all dwellings in its area using the provisions of Section 11B of the LGFA 1992. From 1 April 2013 to 1 April

2019, it charged 150% premium charge for properties empty for over 2 years. Following a full Council meeting of 22 January 2019, it approved the introduction of “a 200% premium charge for properties empty over two years”.

16. The panel found that the appeal property had been unoccupied and substantial unfurnished for over 2 years despite the appellant’s ownership beginning on 25 January 2019. It was unfortunate that the appellant was not aware of the premium charge on empty properties over 2 years, when he purchased the appeal property, but the clock did not restart due to a change in ownership.
17. In considering the appeal the panel could only have regard to the legislation pertaining to council tax and establish whether the billing authority had been correct in applying the premium. Whilst it could understand the frustrations of the appellant and the reasons why he felt it was unfair that a premium should be imposed, the panel had no discretion in the matter and had no jurisdiction to consider the conduct of the billing authority.
18. The panel therefore determined that a premium of 50% above the normal council tax charge for the period 25 January 2019 to 31 March 2019 and a 100% premium for the period 1 April 2019 to 5 July 2019, for a long-term empty property of over 2 years, had been correctly applied to the appeal property.
19. The panel was also mindful of the comments made by the respondent in relation to section 13A(1)(c) of the LGFA 1992. The panel found that there was no exceptional hardship in this case, as it was a commercial property transaction, although it did appreciate the extra council tax had been an unexpected expense. Ultimately, the panel was unable to find anything erroneous with the billing authority’s decision.
20. In view of the foregoing, the appeal was dismissed.

Date: Friday 12 February 2021

Appeal number: VT00000351