

VALUATION TRIBUNAL FOR ENGLAND



Council tax liability appeal; 25% discount; meaning of “student” for council tax purposes; whether a resubmission on a doctorate course can be treated as a full-time course; appeal allowed.

Re: 8 Grange Fold, Allerton, Bradford BD15 7SQ

APPEAL NUMBER: VT00000821

BETWEEN:	Dr J Wall	Appellant
	and	
	Bradford Metropolitan District Council	Respondent
	(Billing Authority)	

PANEL: Ms SA Bello (Senior Member)
Dr PAR Thomson

CLERK: Miss F Willson

REMOTE HEARING: 7 May 2021

APPEARANCES: Dr J Wall (Appellant)
Miss K Ward (on behalf of the billing authority)

Summary of decision

1. Appeal allowed. The panel held that the billing authority had incorrectly interpreted the relevant legislation in refusing to grant the student disregard for the period 17 October 2018 to 3 October 2020 (the disputed period).

Introduction

2. The appeal challenged the billing authority's decision of 7 October 2019 in relation to the calculation of council tax liability for the period 17 October 2018 to 3 October 2020. Dr Wall sought a 25% discount during the disputed period of time on the basis that she continued to be a full time student during this period.
3. The appeal has been accepted by the Valuation Tribunal for England as an appeal under section 16 of the Local Government Finance Act 1992 (the 1992 Act).
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. In order to assist the appellant and with the agreement of all parties, the panel varied the model hearing procedure and invited Miss Ward to present her case first.
7. 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

8. The issue is whether Dr Wall should have been granted a student disregard in respect of her council tax liability for the disputed period.

Evidence and submissions

9. Dr Wall's bundle of evidence included correspondence between herself and the billing authority, documents provided by the University of Bradford (the University) and her appeal form.
10. On behalf of the billing authority Miss Ward's bundle comprised a copy of the appeal form, correspondence between Dr Ward and themselves, correspondence between themselves and the University and copies from the relevant legislation.

Decision and reasons

11. Section 11 of the 1992 Act requires council tax liability to be discounted by 25% if "there are two or more residents of the dwelling and each of them

except one falls to be disregarded for those purposes". Schedule 1 to the 1992 Act provides a category of disregard for students and allows the Secretary of State to prescribe the conditions which must be satisfied. The Secretary of State provided a definition of student in the Council Tax (Discount Disregards) Order 1992 (SI 1992 No.548) (as amended). At Article 4:

- "student" means a person, ... , who is to be regarded as—
- (a) a foreign language assistant, by paragraph 2 of Schedule 1 to this Order;
 - (b) a person undertaking a full time course of education, by paragraphs 3 and 4 of that Schedule; or
 - (c) a person undertaking a qualifying course of education, by paragraph 5 of that Schedule.

12. Paragraph 4 of Schedule 1 to the 1992 Order provides the following definition:

- (1) A full-time course of education is, subject to subparagraphs (2) and (3), one—
 - (a) which subsists for at least one academic year of the educational establishment concerned or, in the case of an educational establishment which does not have academic years, for at least one calendar year;
 - (b) which persons undertaking it are normally required by the educational establishment concerned to undertake periods of study, tuition or work experience (whether at premises of the establishment or otherwise)—
 - (i) of at least 24 weeks in each academic or calendar year (as the case may be) during which it subsists, and
 - (ii) which taken together amount in each such academic or calendar year to an average of at least 21 hours a week.

13. Dr Wall commenced her studies for her doctorate with the University in October 2004 and continued until 23 October 2020 when her thesis was accepted and she was awarded her doctorate. Dr Wall explained that in the period commencing 2004 to 2016 she was dissatisfied with the supervision she received from the University and had lodged a complaint.

14. She argued that the course for her doctorate did not end when she first submitted her thesis on 17 October 2018 when the billing authority ended her disregard. After she had submitted her thesis and had her VIVA she was required to make major corrections and resubmit her thesis on two further occasions before she was awarded her doctorate. This whole period, she argued, she was a full time student as she studied for more than 21 hours per week and for more than 24 weeks per year.

15. The panel found that in order to complete her doctorate, Dr Wall had to continue studying and resubmitting her thesis until 3 October 2020. If she had stopped studying after her first

submission on 3 October 2018 she would not have been awarded her doctorate. It was not until she submitted her thesis for the third time that she was awarded her doctorate.

16. Dr Wall submitted that during the period whilst she was rewriting and resubmitting her thesis there were periods when she was not studying and indeed there was one period when she had suspended her studies due to ill health. The two periods were:

- 26 July 2019 to 13 January 2020 Dr Wall suspended her studies due to ill health.
- 15 May 2020 until 24 July 2020 she was waiting for the results of the resubmission so was not carrying out any studies.

17. Dr Wall drew the panel's attention to the fact that she had been given contradictory advice by different people within the billing authority. She had been told on two occasions that she was entitled to a student disregard and she discussed obtaining a refund of the council tax she had overpaid. On another occasion she was told that she would need the University to confirm that she was a full time student to be able to obtain the student disregard.

18. She had also spoken to the University and had been given student certification from the University commencing at the start of her studies and continuing until 3 October 2020. One of the certificates issued by the University had been amended to read that it was not a certificate for council tax purposes. She submitted that she had done all she could to provide the necessary proof to the billing authority but they had kept changing their requirements.

19. Miss Ward submitted to the panel that whilst the University were not willing to give the necessary certification for council tax the billing authority was unable to award the student disregard. This meant that their hands were tied unless Dr Wall could get confirmation from the University that she qualified as a full time student.

20. The panel noted the contradictory advice that had been given to Dr Wall as contained in her evidence and the fact that Dr Wall's case in many respects was a unique one. The billing authority had relied on the certification from the University. They had not considered for themselves what the legislation stated in regard to the definition of a full time student for council tax purposes. They had, as the awarding authority and with the knowledge of what the requirements were, not done their own analysis in this case. They had relied on what the University had stated. The University is not required to be aware of the council tax legislation nor make such decisions.

21. Miss Ward confirmed that the billing authority did accept that studying for a doctorate did not need to entail attending a specific place to be considered studying and that any doctorate would be likely to be carried out in the field or from home. They did not therefore dispute the fact that any work carried out by a student in their own home or for research should be included in the number of hours of study carried out by that student.

22. The panel found that any work done in connection with the extra research and the rewriting of her thesis would fall to be included in the number of hours she was studying in order to gain her doctorate. The number of weeks and hours per week outlined by Dr Wall, whose verbal evidence very credible, should be included in assessing her eligibility for a student disregard.

23. The panel therefore determined that the period of study in each academic year was in excess of 24 weeks and her hours of study were above 21 hours per week. She therefore qualified for the disregard. The periods of study Dr Wall undertook in the 2018/2019 and 2019/2020 academic years were:

- 2018/2019
 - i. 17 October 2018 to 26 July 2019 = 40 weeks
- 2019/2020
 - i. 13 January 2020 to 14 May 2020 = 17 weeks
 - ii. 24 July 2020 to 3 October 2020 = 10 weeks

Total=27 weeks

24. The panel found that during the disputed period whilst Dr Wall was rewriting her thesis and conducting further research she qualified for the student disregard.

Order

25. As a result of this decision the billing authority is ordered to apply a student disregard from 17 October 2018 to 3 October 2020 in accordance with regulation 38(1) of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009. The billing authority must comply with this order within two weeks.

Date: 24 May 2021

Appeal number: VT00000821