

THE VALUATION TRIBUNAL FOR ENGLAND



Council Tax; LGFA 1992 Section 11; Single Person Discount; Appeal allowed;

Re: Leaside, Sedge Green, Nazeing Essex EN9 2PA

APPEAL NUMBER: VT00001057

BETWEEN: Mr Terence Belcher Appellant
and
Epping Forest District Council Respondent
(Billing Authority)

PANEL: Mrs Judith Ellis (Chair)
Mr David Heelas (Member)

CLERK: Mr Duncan Adamson

Remote Hearing 3 November 2020

Parties present: Mr Terence Belcher, Appellant.

Summary of decision

1. The appeal against the billing authority's decision is allowed. A 25% single person discount is awarded from 1 April 2014 to 31 March 2018.

Introduction

2. This appeal has been brought in respect of the following: Mr Belcher had been made liable for council tax from 1 April 2014 as a resident of Leaside, Sedge Green as a result of a Valuation Tribunal for England (VTE) decision made on 18 April 2018.
3. Mr Belcher initially wrote to the billing authority in April 2018 requesting a 25% discount on his council tax as the only resident of Leaside with effect from 1 April 2014. The billing authority refused to back-date the discount and responded to Mr Belcher on 4 May 2018 with its decision.
4. There was a variety of correspondence between the two parties with the billing authority finally refusing to backdate the discount on 19 November 2018 and advising Mr Belcher to appeal to the VTE.

5. Mr Belcher appealed to the VTE against that decision on 4 June 2019. His application was, by then, out of time and Mr Belcher requested the VTE to consider his late application. This application was considered by a senior member of the VTE and permission to appeal out of time was granted on 20 January 2020.
6. On 23 March 2020 the billing authority notified the VTE that it would not be attending the hearing. The panel therefore considered the appeal with only the appellant present.
7. The appeal was listed for hearing on 6 April 2020 but cancelled due to the national lockdown that had been implemented as a result of coronavirus and re-listed for a remote hearing 3 November 2020.
8. The President of the 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.
9. 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.
10. 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.

Preliminary Matter

11. The appellant submitted his evidence bundle on 25 February 2020, one day late. As this was a breach of procedure the panel was required to consider the three stage test as set out in *Denton v White* [2014] 1 WLR 3926. However, whilst there had been a breach to the tribunal’s directions the panel did not consider this to be either serious or significant. There had been no prejudice suffered by either party and the panel decided that the hearing could proceed with all evidence placed before it and that no sanction need apply.

Issues

12. The issue for the panel to determine was whether the appellant was the only resident of Leaside, Sedge Green and therefore entitled to a 25% discount on his council tax.

Appellants submission

13. The appellant stated that he had been the subject of a previous appeal in 2018 where the VTE found that there was no evidence that there was anyone else except for himself resident at Leaside since 1 April 2014. He queried why the billing authority had refused to give him a single person discount from 1 April 2014. In the billing authority’s own words he was the only person resident at Leaside from 1 April 2014 to April 2018.

14. The appellant stated that he had previously received a letter from the billing authority stating that they were not refusing to backdate the discount but that they required some third party documentary evidence or affidavit to support the backdating.
15. The appellant queried whether there was a need to supply something from a solicitor in support of his entitlement to the discount. In his opinion, he should be able to sign a letter stating that he was the only resident.
16. Mr Belcher felt that the matter could have been resolved in a much simpler form without the need for the large volume of correspondence. He felt that the billing authority didn't answer his letters and that it was orchestrated (sic) against him.

Respondents submission

17. The respondent submitted that it had not refused to backdate the appellant's claim but, in accordance with its policy, it required the appellant to provide third-party documentary evidence or a sworn statement, to evidence the fact that during the four year period, April 2014 to 2018, he had resided at Leaside as the sole adult occupier.
18. The respondent had had lengthy correspondence with the appellant but argued that he had refused to fill out council tax registration forms and would not provide the required documentary evidence or a sworn affidavit as required under its policy to support his claim for back-dating.
19. The respondent included the VTE transcript of Mr Belcher's sole or main residence decision of 2018 as part of its evidence.
20. In view of the evidence provided the respondent sought a dismissal of the appeal.

Decision and reasons

21. The Local Government Finance Act 1992 (LGFA) Section 11 states:

11 Discounts.

- (1) The amount of council tax payable in respect of any chargeable dwelling and any day shall be subject to a discount equal to the appropriate percentage of that amount if on that day-

- (a) There is only one resident of the dwelling and he does not fall to be disregarded for the purposes of discount.

- (2) In this section the appropriate percentage means 25 per cent

22. The panel referred to Mr Belcher's previous sole or main residence appeal in 2018 where his appeal was dismissed as the panel found that the subject property was his sole or main residence since 2014. The subject property was Leaside, Sedge Green.
23. The panel noted that the billing authority had awarded the appellant the 25% single person discount from 1 April 2018 onwards but refused to backdate the discount beyond, what was then, the current financial year.
24. The panel noted the following from the 2018 VTE decision:

“The respondent has shown that it has been unable to find any evidence of occupation by anyone other than the appellant since 2014”

25. The panel found this to be very good evidence that there is only one resident of the dwelling, Mr Belcher, and therefore that he is entitled to the 25% single person discount.
26. The panel was of the opinion that the billing authority had the information necessary to satisfy the regulations in 2018 and could have awarded the backdated discount then.
27. Further, the panel found that there is nothing in the LGFA 1992 that requires any signed affidavit, declaration or third party corroboration of entitlement to the discount and neither is there any reference to limiting the backdating of any discount beyond the financial year such discount is awarded.
28. The appeal was therefore allowed.

Order:

29. Under the provisions of Regulation 38 (1) of The Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) the Valuation Tribunal England orders the billing authority, Epping Forest District Council, to amend the appellants' council tax liability for Leaside, Sedge Green, Nazeing, Essex EN9 2PA by awarding a 25% single person discount for the period 1 April 2014 to 31 March 2018.
30. Under Regulation 38(9), the billing authority must comply with this order within two weeks of the date of its making.

Date: 23 November 2020

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