

THE VALUATION TRIBUNAL FOR ENGLAND



Council tax liability appeal; entitlement to single person discount in dispute; section 11 of the Local Government Finance Act 1992; sole or main residence; appeal dismissed

Re: 30 North Lodge Drive, Papworth Everard CB23 3NY

APPEAL NO: VT00005282

BETWEEN: Ms P James Appellant

And

South Cambridgeshire District Council Respondent
(Billing Authority)

PANEL: Mrs X Holt (Senior Member)
Mrs C Dodsley

CLERK: Miss F Willson

REMOTE HEARING: 10 November 2021

APPEARANCES: Ms P James (the appellant)
Mrs K Hazel (on behalf of the billing authority)

Summary of decision

1. Appeal dismissed. The decision of the Billing Authority (BA) to refuse a single person discount for the disputed period is upheld.

Introduction

2. 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.

3. 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.
4. The appeal was made under section 16 of the Local Government Finance Act 1992. It challenged the Billing Authority’s decision notice dated 30 November 2020, that Ms James was not entitled to a single person discount (the discount) in respect of 30 North Lodge Drive, Papworth Everard CB23 3NY (the appeal property), for the period from 15 January 2015.
5. The absence in this decision of a reference to any statement or item of evidence placed before the panel by the parties should not be construed as it being overlooked.

Issue

6. Whether the appellant is entitled to a single person discount in respect of her council tax liability at the appeal property for the period from 15 January 2015 to date.

Evidence and submissions

7. Ms James relied upon her appeal form and correspondence between the parties.
8. The BA submitted a bundle of evidence which consisted of correspondence between the parties, copy bills and copies of the relevant sections of the legislation. The BA asked the panel to dismiss the appeal as it contended that the decision had been made correctly.

Decision and reasons

9. Council tax discounts are allowed under section 11 of the Local Government Finance Act 1992. The discount of 25% is allowed if there was only one resident in a dwelling. The definition of ‘resident’ is contained in section 6(5):

“‘resident’, in relation to any dwelling, means an individual who has attained the age of 18 years and has his sole or main residence in the dwelling.”

10. Therefore, in order to qualify for the discount Ms James had to be living in the property as her sole or main residence from 15 January 2015.
11. Ms James explained to the panel that she bought the appeal property in her sole name and it was intended that she use it for two to three nights per week for work purposes. She completed the ‘moving in form’ confirming that the property was in her name and that she was the only person moving in. She explained that she never completed an application form for the discount. The council tax bill she was sent already included the discount that she believed she was entitled to. She received bills annually and paid them all by direct debit.
12. Ms James e mailed the BA on 12 October 2020 to enquire whether she was entitled to any further relief on the appeal property, her second home, as she had been unable to use it due

to Coronavirus. The BA then replied asking for details of when the appeal property became a second home and she confirmed that it had always been her second home. Her main home was in Warrington where her husband and family resided.

13. The BA, now alerted to the fact that Ms James was not entitled to the discount, removed it back to 15 January 2015. They then issued a bill which included the backdated charges created due to the removal of the discount which were all due immediately.
14. Ms James submitted that as the sole occupant of her second home she believed that she should be entitled to the discount as otherwise she was being asked to pay a higher tax than other people in the area who lived alone. This did not seem fair to her especially as she had never applied for the discount and the BA had simply awarded her it.
15. The panel were aware that under the legislation a single person discount could only be awarded on someone's sole or main residence. Ms James had never claimed that her main residence was anywhere other than in Warrington with her family and so she was not entitled to the discount.
16. Mrs Hazel submitted that the legislation was clear that the discount could only be awarded on a person's sole or main residence. They therefore had no alternative but to remove the discount as soon as they were made aware Ms James did not qualify for it. There was no discretion for them to apply the discount other than as outlined in the council tax legislation.
17. The discount had been awarded based on the information contained in Ms James 'moving in form'. The council tax regulations do not require a separate application form for the discount and so they had gone ahead and awarded it to her. The BA had acted in good faith in awarding her the discount. Mrs Hazel confirmed that the BA understood that Ms James had acted throughout in an open and honest way, but she did not qualify for the discount. They had a duty to collect the council tax due and as soon as they realised Ms James did not qualify for the discount they had no alternative but to remove it.
18. The panel confirmed that the BA had acted correctly in removing the discount once they were aware Ms James did not qualify for it and issuing a bill backdated to 15 January 2015. The appeal was therefore dismissed.

Date: 15 November 2021

Appeal number: VT00005282