THE VALUATION TRIBUNAL FOR ENGLAND

Council tax liability appeal; sole or main residence; 25% single person discount; R (On the Application of Williams) v Horsham District Council [2004] EWCA Civ 39; *City of Bradford Metropolitan Borough Council v Neil Anderton* HC (RA 1991); *Ward v Kingston-Upon-Hull City Council* HC (RA 1993 71); *appeal dismissed.*

Re: Lancaster House, Mill Lane, Swineshead, Boston Lincolnshire PE20 3PE

APPEAL NUMBER: VT00009052

BETWEEN:	EC	Appellant
	and	
	Boston Borough Council (Billing Authority)	Respondent

PANEL:	Mr Andrew Backway	(Chair)
	Ms Nicola Talbot-Hadley	

CLERK:	Mr Duncan Adamson IRRV (Hons)
REMOTE HEARING 4:	20 May 2022
PARTIES PRESENT:	EC Appellant

Summary of decision

1. The appeal was dismissed. A 25% single person discount under the provisions of section 11 of the Local Government Finance Act 1992 from 27 February 2021 was not applicable to the appellant's council tax liability.

Introduction

2. The appellant appealed to this tribunal on 28 October 2021 against the decision of the billing authority (BA) dated 23 June 2021 not to award a 25% single person discount of her council tax liability at the appeal property Lancaster House, Mill Lane, Swineshead, Boston Lincolnshire PE20 3PE.

3. The appellant sought a 25% discount on the basis that the property was the residence of only one adult. The BA refused to apply the discount as it considered that the property was the main residence of two adults, the appellant and Mr W.

4. The absence in this decision of a reference to any statement or item of evidence placed before it by the parties should not be construed as it having been overlooked by the panel.

Preliminary matter

5. On 16 May 2022 the BA advised the tribunal that they would not be attending the appeal hearing and were happy for it to be heard in their absence on the papers already submitted.

Issue

6. The issue was whether the appellant was entitled to a 25% single person discount as the only adult resident of the appeal property from 27 February 2021.

Evidence and submissions

7. The BA had only submitted their letter of 14 September 2021 re-affirming their decision not to award a single person discount because:

    - Mr W is returning to the above address when he is on holiday.
    - He would return to this address if his job ended.
    - The above address is still considered to be Mr W's main / sole residence in the UK whilst he is working abroad.

8. The appellant had not submitted any further information after her appeal form. Her appeal form stated:

    - my partner has left the UK to work overseas on a permanent basis. In order to see him, I would need to make a trip out there.

    - I informed BBC that my partner is no longer living here, no longer registered as a UK taxpayer, is not registered on the Electoral roll, nor was he listed in the recent census.

    - He has a full residency in the country in which he is working, and there is no end date to the job which he is employed to do.

    - For info his current employer is BAES Systems Saudi Arabia, and he is a permanent employee, not a contractor.

Decision and reasons

9. The panel noted that the BA had not followed the Tribunal's Standard Directions issued with the Notice of Hearing. This required them to provide the Tribunal with a full evidence case pack no later than two weeks prior to the Hearing date.

10. Further, that the BA, in its decision letter, had not referenced any council tax legislation in support of its decision and, more importantly, had not provided any relevant case law.

11. The panel found, therefore, that the appellant had not been appropriately informed as to how or why the BA had come to its decision and the panel was aware that, based on such a paucity of evidence, it was not unlikely that discounts could be erroneously awarded.

12. The panel made reference to Section 6 of the Local Government Finance Act (LGFA) 1992 :

> Persons liable to pay council tax.
>
> (1)The person who is liable to pay council tax in respect of any chargeable dwelling and any day is the person who falls within the first paragraph of subsection (2) below to apply, taking paragraph (a) of that subsection first, paragraph (b) next, and so on.
>
> (2)A person falls within this subsection in relation to any chargeable dwelling and any day if, on that day—
>
> (a)he is a resident of the dwelling and has a freehold interest in the whole or any part of it;
>
> (b)he is such a resident and has a leasehold interest in the whole or any part of the dwelling which is not inferior to another such interest held by another such resident;
>
> (c)he is both such a resident and a statutory secure tenant of the whole or any part of the dwelling;
>
> (d)he is such a resident and has a contractual licence to occupy the whole or any part of the dwelling;
>
> (e)he is such a resident; or
>
> (f)he is the owner of the dwelling.

13. The panel also made reference to Section 11 of the LGFA:

(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; or

(b) there are two or more residents of the dwelling and each of them except one falls to be disregarded for those purposes.

(3) In this section . . . “the appropriate percentage” means 25 per cent or, if the Secretary of State by order so provides in relation to the financial year in which the day falls, such other percentage as is specified in the order.

14. The definition of ‘resident’ is contained in section 6(5) of the 1992 Act as follows:

> “‘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.”

15. During the hearing the appellant informed the panel that Mr W contributes to the mortgage on the appeal property. The panel asked whether Mr W was on the Land Registry Deeds of the property as the owner and the appellant stated that she suspected so.

16. The panel asked the appellant what would happen if Mr W's employment abroad ceased and the appellant replied that he could live at Lancaster House.

17. The appellant also stated that Mr W had returned to the UK in December 2021 and had spent time in Hatfield with his son as well as a couple of days at the appeal property. Further, she stated that she was travelling to Saudi Arabia on 2 June 2022 to see him.

18. The clerk to the tribunal, Mr Adamson, asked about Mr W's accommodation in Saudi Arabia and the appellant stated that BAES supply him with a flat.

19. The question before the panel therefore was whether the appellant's partner, Mr W, had continued to have his sole or main residence at the appeal property after 27 February 2021. The panel found that, given the information on the appellant's appeal form and the appellant's responses under questioning, Mr W had simply left the UK to work abroad but his main residence remained to be the appeal property as he was the owner of that property, his partner lived there and he would return there if his employment was terminated.

20. However, the panel noted that the expression 'sole or main residence' is not defined in legislation.

21. The clerk to the tribunal, Mr Adamson, advised the panel that, in such circumstances, they are required to rely on and are bound by authoritative judgments from Higher Courts.

22. In *R (On the Application of Williams) v Horsham District Council* [2004] EWCA Civ 39 the judgment emphasised that the starting point for sole or main residence should be Section 6(5) of the Local Government Finance Act 1992, where sole or main residence refers to premises in which the taxpayer actually resides. Usually, a person's main residence would be a dwelling that a "reasonable onlooker" with knowledge of all the material facts would regard as that person's home at the time.

23. In *City of Bradford Metropolitan Borough Council v Neil Anderton* HC [1991] RA 45 a merchant seaman's sole or main residence was held to be his house in Bradford on the basis that: it was where his home was; it was his settled or usual abode which he left only when the exigencies of his occupation compelled him to do so for absences of long or short duration; it was where his wife and family lived.

24. In *Ward v Kingston-Upon-Hull City Council* HC [1993] RA 71 Mr Ward spent only six to nine weeks in the United Kingdom and his wife was considering joining him in Saudi Arabia. The High Court held that Mr Ward had greater security of tenure at his dwelling in the United Kingdom, as opposed to that at his employment-related accommodation in Saudi Arabia and that on this basis Mr Ward and his wife had their sole or main residence in the United Kingdom.

25. The panel found that these cases supported the BA decision in that the appeal property continued to be Mr W's main residence from 27 February 2021 and therefore no single person discount was due.

26. The appeal was therefore dismissed.

Date: 10 June 2022