

THE VALUATION TRIBUNAL FOR ENGLAND



Council Tax Liability Appeal; Local Government Finance Act 1992; Hierarchy of Liability; Appeal Dismissed.

RE: 35 Farrow Lane, London SE14 5DB

APPEAL NUMBER: VT00010240

BETWEEN:	LP and CS	Appellants
	and	
	London Borough of Lewisham (Billing Authority)	Respondent

PANEL: Mr A N Backway (Presiding Senior Member)
Mr P J Hickson (Senior Member)

CLERK: Mrs H Beresford

REMOTE
HEARING ON: 31 August 2022

APPEARANCES: LP and CS, the Appellants

Summary of decision

1. Appeal dismissed.
2. The appellants LP and CS, as residents, were liable for the Council Tax in respect of the appeal property for the period from 1 October 2009 to 8 August 2020 and LP, as sole resident, was liable for the period from 9 August 2020 to 10 January 2022.

Introduction

3. This appeal had been brought by the appellants, in respect of the following: The appeal was made against the decision of the billing authority to regard the appellants as residents of the

property and jointly and severally liable for the council tax for the period from 1 October 2009 to 8 August 2020 and LP as solely resident and liable for the period from 9 August 2020 to 10 January 2022. The appeal was accepted by the Valuation Tribunal for England (VTE) as an appeal made under section 16 of the Local Government Finance Act 1992.

4. In this case, in accordance with Practice Statement 11, the billing authority's representative had contacted the clerk, Mrs Beresford, prior to the hearing and asked that the appeal be heard in her absence based on the paperwork provided.
5. 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.

Issue

6. The issue before the panel was whether the appellants, as residents of the appeal property, were liable for the council tax for the period 1 October 2009 to 8 August 2020, and whether LP, as resident, was liable for the period from 9 August 2020 to 10 January 2022.

Evidence and submissions

7. The billing authority had provided a bundle of all of the evidence submitted by both parties which comprised various correspondence between the appellants and owner of the property and between the billing authority and the owner of the property, along with the billing authority's decision and the appeal papers and other correspondence between the billing authority and the appellants.
8. The billing authority had given a brief background to the case in which it contended that the appellants were liable for council tax under section 6 of the Local Government Finance Act 1992, which outlines the persons liable to pay council tax. The appellants had not disputed that they were resident in the property.
9. The billing authority contended that the owner of the property had been made liable from April 2000 with a class V exemption due to diplomatic status and the appellants had moved into the property to live with the owner. It stated that a review of exemptions was carried out by the billing authority in July 2021 at which time it became apparent that the owner had vacated the property to live and work in the USA on 1 October 2009 and that the appellants had been residing there since then. It therefore asked the panel to uphold its decision.
10. The appellants argued that, as they understood it, the owner of the property was paying the council tax. They had put to the owner a proposal that they pay £1,100 in rent or pay that amount **less** the council tax and the appellants would pay the council tax directly. The owner had decided he would accept the £1,100.00 rent. The appellants contended that although the owner did not actually say he would pay the council tax they believed that by accepting the full rent that that was the case. No tenancy agreement had ever been issued. The arrangement continued over the years as the owner never asked them to leave.
11. As the appellants believed that they had paid an amount of rent which included the council tax they asked the panel to overturn the billing authorities decision to continue to hold them liable for a considerable debt which they could not afford to pay.

Decision and reasons

12. In arriving at its decision, the panel had regard to section 6 of the Local Government Finance Act 1992, which outlines the persons liable to pay Council Tax as follows:

“6 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 or introductory 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 terms owner and resident are defined in section 6 (5) as follows:

“(5) In this Part, unless the context otherwise requires—

“owner”, in relation to any dwelling, means the person as regards whom the following conditions are fulfilled—

- (a) he has a material interest in the whole or any part of the dwelling; and
- (b) at least part of the dwelling or, as the case may be, of the part concerned is not subject to a material interest inferior to his interest;

“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.”

14. The panel noted that the appellants had acted in good faith and had believed that they had paid the council tax to the owner of the property, however, the panel did not have any jurisdiction with regard to agreements reached between the appellants and the owner of the property. It also noted that the appellants did not dispute the billing authority’s contention that they were resident in the property.

15. Unfortunately for the appellants the panel was only able to look at the law as it stood, and it found that under section 6 of the Local Government Finance Act 1992 the resident is liable to pay the council tax.
16. In appeals of this nature, the onus is on the appellants to prove their case. In this case, the appellants had provided insufficient evidence to persuade the panel that they should not be held liable for the council tax.
17. The panel was satisfied that the appellants LP and CS were jointly liable for the council tax for the period 1 October 2009 to 8 August 2020 and LP was liable for the period from 9 August 2020 to 10 January 2022 as the liability under the hierarchy fell on the resident.
18. Therefore, the appellants, as residents became liable for the council tax for the periods in question and the panel dismissed the appeal.

Date: 13 September 2022

Appeal number: VT00010240

Right of appeal:

Any party who is aggrieved by the Tribunal's decision has the right of appeal to the High Court on a question of law. Any such appeal should be made within four weeks of the date of this decision notice