



VALUATION TRIBUNAL FOR ENGLAND

Council Tax Liability appeal: Local Government Finance Act 1992; section 6 of the Local Government Finance Act 1992; appeal dismissed.

APPEAL NUMBER: VT00019215

RE: 10 Arundel Road, Wickford SS11 7JY
(the "appeal property")

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| BETWEEN: | P A | Appellant |
| | and | |
| | Basildon Borough Council (Billing Authority) | Respondent |

SITTING: *Remotely using Microsoft Teams*

ON: 6 September 2024

BEFORE: Mr K Everett, Presiding Senior Member
Mrs MJ Cole, Senior Member

CLERK: Mr R Gath IRRV(Hons)

APPEARANCES: P A (Appellant)
Ms Albana Kadria (interpreter)
Mr Jake Acock (Appellant's barrister)
Miss Kayleigh Patch (Respondent's representative, who was assisted by
Mr Alexander Eady)

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is dismissed.
2. The Tribunal panel determined that the Appellant was liable for the council tax for the period 10 February 2020 to 7 March 2021 (inclusive).

Introduction

3. This is a Council Tax liability appeal made under section 16 of the Local Government Finance Act 1992 (LGFA 1992). The Appellant was aggrieved by the Billing Authority's (BA) determination that he should be liable for the council tax for the appeal property for the period 10 February 2020 to 7 March 2021 (inclusive).
4. At the Appellant's request, an interpreter was appointed by the Tribunal to enable him to fully participate in the hearing, as English was not his first language. On being appointed the interpreter declared that he was impartial, had no knowledge or interest in the outcome of the appeal and that he understood that, in her role, she cannot provide the Appellant with any advice and must interpret by using the precise words of the Appellant.
5. This statement of reasons is not and does not purport to be a full verbatim record of proceedings.

Background

6. The Appellant was seeking a determination that he should not be liable for the council tax for appeal property for the period 10 February 2020 to 7 March 2021 (inclusive).
7. The BA provided the joint evidence bundle which included their statement of case; the appellant's appeal form; email exchanges that had between the BA and the London Borough of Waltham Forest; correspondence that had passed between the parties. Mr Acock only provided his skeleton argument the day before the hearing. It was copied to the BA for their information. It did not contain any new evidence but was merely setting out Mr Acock's arguments.
8. As the panel considered that the terms of the tenancy agreement may affect the outcome of the appeal, after the conclusion of the hearing, directions were issued on 4 October 2024 seeking a copy of the Appellant's tenancy agreement from the BA. A copy was forwarded to Mr Acock although he provided no comments in respect of the tenancy agreement provided by the BA.

Relevant Law

9. Liability for the council tax was set out in section 6 of the Local Government Finance Act 1992 (LGFA 1992).

Section 6 (2) of the LGFA 1992 provides that liability to pay council tax on a chargeable dwelling on any day falls to the person first named in the following list (the hierarchy of liability):

- a) a resident of the dwelling with a freehold interest;
- b) a resident of the dwelling with a leasehold interest not inferior to any other interest held by any other resident;
- c) a statutory, secure or introductory tenant who is a resident;
- d) a resident with a contractual licence;
- e) a resident;
- f) the owner of the dwelling.

The person who is liable under section 6 is the person who falls within the first paragraph of the foregoing list, taking paragraph (a) of that list first, paragraph (b) next, and so on.

A “resident” is an individual who has attained the age of eighteen years and has their sole or main residence in the dwelling.

Section 6 (5) states

“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;
- 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;

“Material interest” means a freehold interest or a leasehold interest which was granted for a term of six months or more.

Discussion

10. The panel was disappointed by the evidence bundle that had been provided to it as there were a significant number of places where information from the BA had been blanked out. The Tribunal has issued guidance from the Tribunal’s President on withholding evidence, on its website. In effect, unless the disclosure of evidence would cause harm, (in which case an application to exclude evidence would need to be made to the President), evidence should not be redacted. However, the panel understood the reasons (relating to confidentiality of names of those at the London Borough of Waltham Forest).
11. Mr Acock argued that the Appellant should not be made liable for the council tax for the appeal property as he was unable to reside in it due to health issues and continued to reside at another property. However, due to the lockdowns and lack of available staff, he was unable to return the keys or relinquish the tenancy for the appeal property until 7 March 2021.
12. He also submitted that the Appellant’s material interest was not higher than that of the owner. However, the panel applied less weight to this argument as the person with the most inferior interest is liable for the council tax for an unoccupied property.
13. Mr Acock also argued that the London Borough of Waltham Forest insisted that the Appellant had to take the tenancy of the appeal property and he considered this was misrepresentation. However, this Tribunal can only deal with the issue of the liability for the appeal property and not whether the tenancy agreement should be voided or enforced. Ultimately, a tenancy agreement had been signed by both parties and the Appellant had not taken any steps to have the agreement cancelled for the duration he held the tenancy. The panel therefore had to consider that there was a valid tenancy agreement in place.
14. The panel understood that the Appellant was aggrieved at the way he was dealt with by the London Borough of Waltham Forest. However, these were not issues that could be dealt with by this Tribunal and would be a matter for the Local Government and Social Care Ombudsman. The Appellant would need to follow the Council’s complaints policy before he could refer the matter to the Ombudsman.
15. Sections (6)(2) (a) to (e) of the LGFA 1992 refer to the property being someone’s sole or main residence. Section (6)(2)(f) of the LGFA 1992 applies when a property becomes no-one’s sole or main residence. There was no dispute that the appeal property had not been

occupied by the Appellant as it was not suitable for his needs. The BA contended that the Appellant was liable for the council tax under Section 6(2)(f) of the LGFA 1992 as the BA had decided that the Appellant held a material interest in the appeal property. As stated above, the LGFA 1992 defines a "Material interest" means a freehold interest or a leasehold interest which was granted for a term of six months or more.

16. Within the BA's evidence bundle was an offer of accommodation which stated that the Appellant was offered an Introductory Tenancy for the appeal property. It stated that the rent would be £96.81 per week and that it would be subject to the terms and conditions of the agreement.
17. The BA confirmed verbally during the hearing that introductory tenancies were granted for a minimum of 12 months and this was supported by the tenancy agreement that had been provided after the hearing.
18. As the Introductory Tenancy Agreement was granted for more than six months, the panel was satisfied that the Appellant had a material interest in the appeal property and it dismissed the appeal.

Date issued to parties: 8 January 2025

Right of further 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.
