



VALUATION TRIBUNAL FOR ENGLAND

Council tax liability appeal: Local Government Finance Act 1992; Council Tax (Additional Provisions for Discount Disregards) Order 1992; religious communities; Class B; appeal dismissed.

APPEAL NUMBER: VT00019221

RE: 50 Owen Street, Dudley DY2 7HT
(the "appeal property")

BETWEEN:	GM	Appellant
	and	
	Dudley Metropolitan Borough Council (Billing Authority)	Respondent

SITTING: remotely using Microsoft Teams

ON: Tuesday 28 May 2024

BEFORE: Mr SW Chappell, Presiding Senior Member
Ms A Verma, Senior Member

CLERK: Mrs K Edhouse-Thomas

APPEARANCES: GM, appellant with support from Father K Wittwer
Mr P Brooker of Citizens Advice, representative for the appellant
Mr I Hatfield, representative for the respondent

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is dismissed.
2. The Tribunal Panel found nothing erroneous with the billing authority's decision not to award a discount by way of disregard for religious communities.

Introduction

3. The appellant is a member of the Genuine Orthodox Church of Greece and had sought a 50% reduction in respect of her council tax liability for the appeal property from 1 April 2022, on the grounds that she was a member of a religious community.
4. This appeal has been brought by the appellant under section 16 of the Local Government Finance Act 1992. The appellant is aggrieved by the decision of the billing authority not to disregard all persons and grant a 50% discount.
5. This statement of reasons is not and does not purport to be a full verbatim record of proceedings.

Background

6. The appellant had rented the appeal property from a housing association since 19 December 1994, and raised her family there. She had been unemployed since 2020, did not claim any unemployment benefits or a single person discount.
7. The appellant made an application for a disregard discount from 1 April 2022 on the basis that she is a member of a religious community, she has a room within her house converted into a small chapel and is dependent on the community to provide for her material needs.
8. The billing authority refused to award the disregard discount because it considered that evidence had not been provided to demonstrate that the appellant was dependent on the religious community to provide for her material needs in accordance with Class B of The Council Tax (Additional Provisions for Discount Disregards) Regulations 1992.
9. The billing authority served an evidence bundle containing its case together with the appellant's submissions. Amongst other things, it contained copies of various communications between the parties and a reference was also made to the relevant legislation.

Relevant Law

10. Section 11 of the Local Government Finance Act 1992 makes provision for the appropriate amount of council tax to be subject to discount, depending on the number of residents and, if any of them fall to be disregarded. When all residents fall to be disregarded persons for the purpose of discount, the amount of council tax payable shall be subject to 50% of the amount. If all but one resident is disregarded, the amount payable is 75%. When there are two or more persons resident who are not disregarded, no discount is applicable.
11. In reaching its decision, the panel had regard to paragraph 11 of Schedule 1 to the Local Government Finance Act and The Council Tax (Additional Provisions for Discount Disregards) Regulations 1992 (SI 1992 No.552) as amended. The class relevant to this appeal being Class B of the classes of 'Persons of other descriptions', which states the following:

'3 Persons of other descriptions: England

- (1) In relation to dwellings in England, the descriptions prescribed for the purposes of paragraph 11 of Schedule 1 to the Act and the conditions to be fulfilled in respect of

those descriptions on a particular day are, subject to paragraph (2), that a person is within one of the following classes-

.....

Religious communities

Class B: a person who-

- (a) is a member of a religious community the principle occupation of which consists of prayer, contemplation, education, the relief of suffering, or any combination of these; and
- (b) has no income or capital of his own (disregarding any income by way of a pension in respect of former employment) and is dependent on the community to provide for his material needs;'

Discussion

12. The appellant asserted that she met the definition set out above, submitting that "I live a committed, 'solitary' religious life with designated religious activities and my application solely rests and has its foundation on all of the relevant criteria and always has been". She stated that she was the sole representative of the Genuine Orthodox Church of Greece in England with a responsibility for carrying out religious services and activities. Other than her family, there were only two other members in London and a family in Nottingham. She further stated that she did not have any income but accepted financial and food donations and gifts from the Christian Greek Orthodox Church and local community of Christians.
13. The appellant had provided a letter from the Bishop of Bresthena, Church of the Genuine Orthodox Christians of Greece which stated that the appellant is an "ongoing, active member of our religious communion", and that "*she has received for many years now, our permission and blessing to use her personal residence as a church or place of prayer/worship. Furthermore, two monasteries under our jurisdiction in Greece, give some support and financial assistance to (the appellant) as she has no income.*" The appellant stated that financial donations of cash would be sent in the post from the church in Greece or would be collected by herself or others when visiting Greece.
14. At the hearing, the appellant stated that in addition to the cash received from the church in Greece, she had received quite a lot of donations from her family and the religious community. A recent example of this was a donation of £70 from a lady to pay for a parking ticket that she had received. The donations were likened to 'Go Fund Me', where the appellant asks for financial assistance when she is in need and people donate to her. The panel noted that no records had been kept demonstrating how much had been received in donations and from whom.
15. The panel was advised during the hearing, that a member of the appellant's church paid the rent for the appeal property on behalf of the appellant as well as paying for online food shopping orders for her. Very little information was provided in relation to this, however upon further questioning the appellant stated that one person paid for it, but other members of the Church put money together to pay for it. The appellant stated that the utility bills were paid from her bank account.

16. The billing authority argued that whilst it had received a letter from the religious organisation advising that the Church gave 'some' financial support, it had received no evidence of what funds the appellant had received in respect of this.
17. The billing authority further submitted that it had received a bank statement from the appellant, which had two payments on 15 and 24 June 2021 for £400 and £300 respectively from someone with the appellant's married surname. In its opinion, these payments had been made in respect of board and lodgings for the appellant's son, whom it believed still lived there, and indicated that the appellant was not just reliant on financial donations. In respect of these payments, the appellant stated that her family were members of the Genuine Orthodox Christian Church and donated to her. She stated that "it was standard practice to donate to solitaries that live a monastic life".
18. The panel must interpret and apply the relevant law, and in accordance with the statutory provisions contained within the Council Tax (Additional Provisions for Discount Disregards) Regulations 1992, the appellant's circumstances must satisfy both tests to be eligible for the discount. In respect of the first test (a), the panel was satisfied that the appellant met the criteria for being a member of a religious community the principle of which consists of prayer, contemplation, education, the relief of suffering, or any combination of these. It found the contents of the letter from the Bishop of Breshena to be compelling, in this regard.
19. Although the test in (a) was met, in order to qualify for a discount disregard under Class B the second test (b) had also to be met. In order to pass this test, the appellant would have needed to prove that she had no income or capital (disregarding pension income from a previous employment) and was reliant on the community to provide for all of her financial needs.
20. However, whilst the appellant claimed she received no income from either any gainful employment or unemployment benefits, it was not clear from the evidence submitted before it, how the appellant managed to make ends meet. She claimed to be reliant on the generosity of others, some of her income was received from her family and some financial support was received from other unnamed individuals. The scale of these donations was unknown. As the appellant did not own her own property, the financial donations that would be required to support her chosen lifestyle would have been more than the incoming support that she was prepared to disclose. Not only would the rent need to be covered, but all her utility payments, council tax, grocery bills and other sundry living expenses (including the running of a car). The appellant provided only one piece of documentary evidence in respect of her income namely the one bank statement from June 2021, a snapshot of income at that time, which showed money was paid into an account held by the appellant – the source of these funds was a family member.
21. When the appellant was asked to account for where all her money was coming from, she was very vague in her answers and did not provide a satisfactory narrative. In addition, there was no evidence of regular donations from the Genuine Orthodox Church and no records of what donations had been made by it, for the period for which a discount disregard was claimed. The inference the panel drew from the evidence presented was that the appellant was in receipt of undeclared income from other unknown sources. This was particularly the case having regard to the living expenses the appellant would incur from residing in the appeal dwelling and, the amount she required to live on. There was an absence of any compelling evidence from the appellant who provided little or no to support her case that the patchy and ad hoc arrangements she had described in terms of her support from the community wholly covered her living expenses.

22. In cases of this nature, where an appellant was seeking a discount, in this case to get a reduction in council tax, there was an underlying principle that if they had knowledge or access to information that supported their claim, they should have provided it. In this case, such supporting information was not provided. The panel therefore made a finding of fact that the appellant was not dependent on the community for her material needs and accordingly she was not entitled to the discount disregard under Class B. The appeal was therefore dismissed.

Disposal

23. In view of the above findings and conclusions, the Tribunal Panel found nothing erroneous with the billing authority decision not to award a discount by way of disregard for religious communities.

Date issued to parties: 25 June 2024

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.
