



VALUATION TRIBUNAL FOR ENGLAND

Council tax liability appeal: removal of single person discount in dispute; main residence of appellant's partner; Local Government Finance Act 1992; appeal dismissed.

APPEAL NUMBER: VT00019225

RE: 67 Tower Road, Felixstowe, IP11 7PR
(the "appeal property")

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| BETWEEN: | G E | Appellant |
| | and | |
| | East Suffolk Council (Billing Authority) | Respondent |

SITTING: *Remotely using Microsoft Teams*

ON: Wednesday 29 May 2024

BEFORE: Mrs N Crawshaw, Presiding Senior Member
Mr A Hussain, Senior Member

CLERK: Mrs L Horne

APPEARANCES: The appellant
Mr P Seeley representing the respondent

DECISION AND STATEMENT OF REASONS

Decision

1. Appeal dismissed. The panel upheld the Billing Authority's decision to remove a single person discount in respect of the appellant's council tax liability at 67 Tower Road, Felixstowe, IP11 7PR (the appeal property) with effect from 25 July 2023.

Introduction

2. This appeal has been brought in respect of the above dwelling and challenged the Billing Authority's decision of 21 September 2023 to remove the appellant's single person discount with effect from 25 July 2023.

3. The Billing Authority had determined that RB (the appellant's partner) had his main residence at the appeal property from 25 July 2023, and he was therefore jointly liable from that date. The appellant disputed the decision as his partner was not a UK resident and was subject to a fiancé visa with no entitlement to public funds or employment.
4. The appeal had been accepted by the Valuation Tribunal for England on 3 October 2023 as an appeal made under section 16 of the Local Government Finance Act 1992; that section allowed challenges concerning the calculation of council tax liability.
5. In order to assist the appellant and with the agreement of the parties, the model procedure was varied, and the Listing Officer's representative invited to present his evidence first.
6. This Tribunal decision document is not and does not purport to be a verbatim record of proceedings.

Issue

7. Whether the Billing Authority had correctly removed the appellant's single person discount with effect from 25 July 2023.

Evidence and submissions

8. The bundle comprised the parties' respective cases and supporting documents.
9. The Billing Authority's submission included extracts from the Local Government Finance Act 1992 and summaries of the following higher court judgments:
 - *Bradford Metropolitan Council v Neil Anderton* [1991] RA 45, 89 LGR 681
 - *Ward v Kingston upon Hull City Council* [1993] RA 71
 - *Doncaster Borough Council v Stark* [1998] RVR 80.
 - *Codner v Wiltshire Valuation and Community Charge Tribunal* [1994] RA 169.
 - *Cox v London (South West) VCCT & Poole BC* [1994] 34 RVR 171
 - *Hesamedin Navabi v Chester-le-Street District Council* [2001] EWCH Admin 796
 - *R (on the application of Wright) v Liverpool City Council* [2012] EWHC 626
 - *R (on the application of Williams) v Horsham District Council* [2004] RA 49
10. On behalf of the Billing Authority, Mr Seeley contended that the appeal property was RB's main residence from 25 July 2023, as he was the appellant's partner. He was therefore jointly liable for council tax in accordance with section 9 of the Local Government Finance Act 1992.
11. The appellant submitted that until his partner was granted his UK residency permit, his main residence remained in the Philippines at his parent's address. As the sole UK resident living at the appeal property, the appellant contended that he should continue to receive a single person discount.

Decision and reasons

12. Council tax was essentially a property tax, but a significant factor which distinguished it from a pure property tax was the concept of discounts relating to personal circumstances,

such as the single person discount provided under section 11 of the Local Government Finance Act 1992, which allowed for a 25% discount for a dwelling with only one 'resident'.

13. The definition of 'resident' was 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.

14. The phrase 'sole or main residence' was not defined by the legislation; however, it had been considered by the High Court (and Court of Appeal) in a number of cases. In the cases cited by the Billing Authority a person's main residence was held to be at their family homes where they returned at weekends or when not at work. It was also clear from the case law that time spent at an address was not the determining factor and that all facts and circumstances needed to be considered in each individual case.

15. The facts of the case can be summarised as follows:

- On 4 August 2022, RB entered the UK on a visitor visa and stayed with the appellant at the appeal property.
- On 14 November 2022, RB left the UK to return to work in Qatar.
- On 25 July 2023, RB returned to the UK on a fiancé visa. The appellant stated that he had lived with him at the appeal property since that date.
- On 8 October 2023, RB was granted leave to remain in the UK.

16. The appellant's main contention was that he had continued to receive a single person discount when his partner was resident from August to November 2022 on a visitor visa. He submitted that when his partner returned on 25 July 2023, the conditions of the fiancé visa were the same, in that his partner was not a UK resident, he had no access to public funds, and he was unable to work. The appellant considered that his partner's liability should not commence until 8 October 2023 when he was granted leave to remain in the UK.

17. The panel acknowledged the reasons for the appeal, based upon the appellant's reference to his partner's UK residency status, however, for the purposes of council tax liability, this was not a relevant factor. The panel was required to consider whether the appeal property was RB's sole or main residence at the material time. On this point, the panel noted that the appellant had confirmed in response to a question, that the appeal property was his partner's sole residence from 25 July 2023.

18. Having considered all of the facts and the relevant case law, the panel held that the appeal property was RB's main residence with effect from 25 July 2023. As such, the Billing Authority had correctly removed the single person discount from that date.

19. In view of the foregoing, the appeal was dismissed.

Date issued to parties: 21 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.
