



CH/779/2007 - Interim Decision

Case law

Case law date	17/08/2007
Commission/Judge	Commissioner Turnbull

Relevance of support available to tenants generally but not taken advantage of by the claimant made available to - interim decision

Background

The claimant had a learning disability. She had previously lived with her parents. In October 2005 she was granted a tenancy in a semi-detached house owned by Golden Lane Housing Ltd ("GLH"). The initial rent was £254.90 per week, with a provision that this would increase on 1 April 2006. The local authority decided that the HB should be limited to the local reference rent of £150 per week, on the ground that the claimant's dwelling was not "exempt accommodation". It was argued on the claimant's behalf that as GLH itself provided some housing-related "support" to the claimant, the definition for "exempt accommodation" was therefore satisfied. A tribunal accepted that contention and allowed the appeal. A legally qualified panel member gave the local authority permission to appeal to a Social Security Commissioner.

Commissioner's interim decision

Mr Commissioner Turnbull said that in the case of "care" and "supervision", these must actually be provided by the landlord. It was not enough that they were available should the tenant wish to call for them. In the case of "support", however, the making available of certain types of service may amount to the provision of "support". In determining this issue the Commissioner said that regard needed to be had to the following factors:

- (i) First, the extent of the support services which were in reality available, having regard to the resources devoted by the landlord to providing those support services and the number of tenants among whom those resources were spread.
- (ii) Secondly, the extent to which there was, in practice, any real likelihood that the claimant would need the available support.

The Commissioner concluded that the tribunal's decision could not be upheld as there was no evidence as to: (a) how many tenants GLH had; (b) how many employees were involved in providing support; or (c) over what period the support had been made available. The Commissioner set the tribunal's decision aside and decided to hold an oral hearing in order to determine for himself what the decision should be, after the parties had the opportunity to present further evidence. The final decision can be found in CH/799/2007 and ors (28 August 2008) also reported as R(H) 4/09.