



CH/890/2009

Case law

Case law date	01/02/2011
Commission/Judge	Judge Lloyd-Davies

Whether a landlord providing supported housing was a “voluntary organisation”

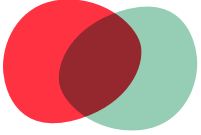
Mrs A and her husband rented accommodation under a contract with Durham County Council in two properties jointly owned by Mrs A and her husband. The tenants who were referred by the Council were people with learning disabilities. They were provided care, support and supervision by Deaconstar Ltd. Mrs A and her husband were the sole shareholders and directors of Deaconstar Ltd. Mrs A, who was a trained nurse, had previously been running her own business of providing residential care for people with learning disabilities as part of an adult placement scheme run by Durham County Council. She did this in two properties jointly owned by her and her husband. The company had been set up in November 2002 after they had been advised by the Council that one needed to be formed if care, support and supervision were to be provided under the Supported People scheme. Deaconstar Ltd took over the care business but the properties continued to be owned by Mrs A and her husband as individuals.

On a range of dates between May 2003 and October 2007 Wear Valley District Council issued a number of decisions restricting the amount of HB payable to the various claimants to the maximum amount determined by the rent officer. This led to a reduction in the HB payable on a number of tenancies from about £90 a week to about £40 a week. Nine of the tenants brought an appeal. Wear Valley DC's submission to the tribunal was that the First Respondent and her husband did not satisfy the definition of a “voluntary organisation” as: (i) they did not have the structure of a body; and (ii) they did not satisfy the “not for profit requirement” because the properties could be regarded as an investment and they would receive the profits when the properties were sold.

The tribunal allowed the claimants' appeals saying that it was satisfied that the arrangements whereby care, support or supervision was provided to tenants by Deaconstar Ltd on behalf of Mrs A and her husband were not contrived arrangements merely to take advantage of the HB scheme. The tribunal also said:

“It is the case that profit can be made on the sale of properties. Sometimes losses can be made. The potential for receiving a sum of money greater than originally expended when a property, no longer required, is disposed of, would not in the circumstances of this case change the dominant purpose of the appellant. That purpose is the provision of accommodation for persons with learning disabilities.”

The Commissioner ruled that the tribunal had erred in law because it had not grappled with the main argument advanced on behalf of Wear Valley DC “as to the



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indicia of a voluntary organisation". Instead, the tribunal had proceeded as if the only argument being advanced by Wear Valley DC was that the arrangements were contrived. Whereas the Council had disclaimed any suggestion that there was a scam in this case. The Commissioner set the tribunal's decision aside and remitted the case to a differently constituted tribunal.

Note: For further consideration of whether a landlord is "trading for profit" in the supported housing context see Wirral Borough Council v 1) Furlong 2) Perry 3) Salisbury Independent Living and Secretary of State for Work and Pensions (HB) [2013] UKUT 291 (AAC).