



R(H) 2/07

Case law

Case law date	19/06/2006
Commission/Judge	Commissioner Turnbull

Exempt accommodation - meaning to be given to the phrase “on behalf of” - where arrangement between the landlord and the care provider was a joint venture

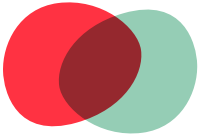
The background and outcome

The case concerned claimants with learning difficulties who shared a house. Each claimant was granted a tenancy for his bedroom, with a right to use the shared living accommodation and common parts. The supported housing arrangement involved three parties: (i) a housing provider: Rivendell Lake Housing Association; (ii) a care provider: Citizenship First, which was a separate organisation; and (iii) the local authority social services, which commissioned the care package and funded the care. There was a written agreement in place between Rivendell and Citizenship First. In addition, the local authority had drawn up care plans for the claimants on the basis that the accommodation would come from Rivendell. Rivendell charged rent of £238.92 per week on the basis that the accommodation was ‘exempt’ (and the rent was necessary to meet the additional costs of providing this type of specialist housing). However, the local authority applied the normal rules and capped the HB at £45 per week. A tribunal dismissed the claimants’ appeal. The refusal was upheld by Mr Commissioner Turnbull who decided that the arrangement between the landlord and the care provider outlined above did not come within the definition for “exemption accommodation”.

Practice Point

This was the first of a series of decisions by Mr Commissioner Turnbull (as he then was) which clarified the circumstances in which Housing benefit (HB) can be claimed at a higher rate to meet the additional costs of providing supported housing under the provision for “exempt accommodation”. It had been assumed that under this definition, care, support or supervision could be provided ‘on behalf’ of the landlord by a care provider if the landlord was involved in co-ordinating the care with social services. This all changed following Mr Commissioner Turnbull’s ruling in this case. The Commissioner said that it was clear from the facts of the case that

- the landlord (Rivendell) was not under any contractual or statutory obligation to provide the claimants with support services. This was provided by a separate agency (Citizenship First), which in turn had been engaged by the local authority.
- in reality, in this type of arrangement it was the local authority which was under a duty to ensure that the claimants were provided with support services;



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- an arrangement where the landlord and the care provider are engaged in a joint enterprise to run a supported housing scheme is not sufficient to come within the exemption;
- under this type of arrangement, the support provided by the care provider is not being provided “on behalf of” the landlord, as required by the statutory definition.

The significance of this decision for landlords providing supported housing

The ruling meant that many landlords providing supported housing could no longer rely on the exemption to claim HB at a higher rate, which in turn had an adverse impact on many vulnerable people seeking to find supported housing to live a more independent life within their community. In a latter decision, R(H) 4/09, Commissioner Turnbull (as he then was) described why his ruling in the following terms:

- “In R(H) 2/07, decided in June 2006, I held that support was not provided by the support provider “on behalf of” the landlord (within the meaning of the definition of “exempt accommodation”) where the landlord was under no contractual or statutory obligation to provide the support and the support provider had been commissioned by the local authority, not the landlord, to provide the support. That decision was of significance in that there appeared to be a view in general circulation that if the landlord and the support provider were working to achieve a common aim (namely the success of the supported housing scheme), the support could be said to be provided “on behalf of” the landlord because it was in the interest of the landlord that the support be provided.” (At para 17).