MRAssociates
Advisers to Supported Housing

T - 01475 727 089
F - 07092 882 002
W - www.mrassociates.org

Kingston House,
3 Jamaica Street, Greenock,
Renfrewshire, PA15 1XX.

CH/1289/2007

Case law

Case law date	03/07/2007
Commission/Judge	Commissioner Turnbull

Direct provision of "support" – the approach to be taken where the landlord has a number of tenants in a building with varying needs

Background and outcome

The housing provider, Rehab98 Ltd ran two hostels for homeless people. The claimant occupied a room in one of the hostels, which provided accommodation for a total of 27 licensees. Until June 2005 Rehab98 Ltd had been in receipt of "Supporting People" funding. When this funding was terminated, Rehab98 Ltd reduced its expenses by making some of its employees redundant. At the same time it increased the rent to £201.26 per week. The local authority decided to restrict the rent eligible for the HB claimed by the occupants to £81.65 per week. The claimant and other occupants appealed against these decisions. Rehab98 produced evidence that it provided a range of services to the occupants, including: "help in managing finances", "liaison with CPNs, community drugs team, probation and other statutory agencies", "help in establishing social contacts", and "emotional support and advice.". The appeals were dismissed by a tribunal on the basis that these were services which are routinely provided by social landlords. The Commissioner disagreed and set the tribunal's decision aside as wrong in law and remitted matter to a new tribunal with directions.

Practice Points

The need to carry out an individual assessment

The Commissioner said that as a general rule it is the individual claimant's dwelling and not the building that will either be or not be "exempt accommodation". However, the Commissioner acknowledged that this approach may not be applicable in cases where the landlord has a number of tenants in a building (or several buildings) and the landlord is able to show that the level of support provided to those tenants is broadly similar. However, if the needs of the occupants did vary, then it would not be appropriate to treat one of them as a test case, or the outcome in that case as determining the other occupants' appeals.

Procedure to be adopted where the landlord has a number of tenants with similar needs

- If the evidence shows that the landlord's tenants have similar needs then consideration can be given to whether one or a number of cases can be selected as test or specimen cases.
- The claimants (or those whose appeals are selected as lead cases) should give

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oral evidence at the hearing so that they can be questioned as to the support which is actually provided to them.

- If the landlord has increased the level of support provided in the period following the adverse decision under appeal, then the tribunal is prohibited from taking this into account.
- Accordingly, if the parties want a tribunal decision to take any increases in the level of support being provided by the landlord into account, then it will be necessary for new claims to be made, decisions made on them and appeals lodged. A request can then be made for the further appeals (or a selection of them) to be decided at the same time as the first appeal.