



CH/3900/2005

Case law

Case law date	09/07/2007
Commission/Judge	Commissioner Pacey

Proper construction of accommodation "provided by" an authority or other organisation.

The background

The claimant had special needs. Kent County Council engaged Independence Homes to help them find suitable accommodation. This led to the claimant moving into Torwood Cottage, a private address. Domiciliary support services were provided by Independence Homes on behalf of Kent County Council. HB was restricted by the local authority on the basis that as the claimant's obligation was to pay rent to a private landlord it followed that the accommodation could not be exempt as it had not been "provided by" Kent County Council. A tribunal allowed the claimant's appeal and gave "provided by" a wide construction on the following basis:

"Kent County Council has the right to say who will live in Torwood Cottage (or at least [the claimant's] part of it) ... They engaged Independence Homes to act on their behalf in order to meet the council's obligation to house [the claimant] and to provide her with support services. It is thus Kent County Council who have said it is [the claimant] who is to live at Torwood Cottage...Thus looking at the situation as a whole I have concluded that the words 'provided by' in the definition of exempt accommodation should be given a broad meaning and that [the claimant's] accommodation at Torwood Cottage is being 'provided by' Kent County Council in compliance with Kent County Council's statutory duties to [the claimant]."

The outcome

The local authority appealed and before the Commissioner it argued that where a local authority arranges for a third party to obtain accommodation for a person with special needs from a private landlord, it cannot properly be held that such accommodation is 'provided by' the local authority and, on the contrary, the accommodation is 'provided by' the individual who rents it out to a claimant, and not by any body that facilitates the provision of that accommodation. The Commissioner agreed and held that the phrase provided by as used in the definition for "exempt accommodation" did not include instructing, arranging or facilitating privately rented accommodation through a third party. Accordingly, the claim for HB did not come within the provision for "exempt accommodation".