



CH/4432/2006 and others - Interim decision

Case law

Case law date	01/12/2008
Commission/Judge	Judge Turnbull

Whether landlord (Empower HA Ltd) is providing housing-related support to its tenants

The three claimants had severe learning disabilities. Each was provided with 24-hour care, supervision and support by Lancashire County Council ("LCC"). They each occupied a bedroom in a 4 bedroomed bungalow. The claimants each had tenancies with Empower Housing Association Ltd ("Empower"), the owner of the bungalow. In each case Chorley Council determined that the HB payable should be restricted on the basis that their accommodation was not "exempt". The claimants argued that, notwithstanding the care and support provided by LCC, Empower also provided the claimants with housing-related "support". A tribunal allowed the appeals but Chorley Council appealed to a Social Security Commissioner on a point of law.

Mr Commissioner Turnbull held that the tribunal had been wrong to find that the staff employed by LCC were less available to attend the property than those employed by Empower. The evidence showed that LCC employed someone to be on site all the time, to provide 24-hour care. As this finding had formed one of the cornerstones of the tribunal's decision, this amounted to an error of law. Mr Commissioner Turnbull directed that he would decide the appeals himself after rehearing the evidence. The final decision can be found in CH/4432/2006 and others, dated 12 June 2009, which has the neutral citation *Chorley BC v EM* [2009] UKUT 108 (AAC).