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CSH/250/2014

Case law

Case law date	23/12/2014
Commission/Judge	Judge Wright

University campus accommodation – whether general forms of support provided to students is capable of being "support"

The background and outcome

The claimant was by a disabled student who lived in accommodation on a university campus. She required overnight care, which was provided under a care package commissioned by the local authority. She argued that her university rooms should be classed as "exempt accommodation" as the university, which is a registered charity, provided support that was more than minimal both in the form of "accommodation specific support" and more general services, (such as financial support and disability support services) which were generally available to students, whether or not they are tenants of university accommodation. A tribunal dismissed the claimant's appeal. However, the Upper Tribunal substituted its own decision held that the university has gone above and beyond its normal responsibilities as a landlord in assisting the claimant and allowed the claim for HB under the exempt provision.

Practice point

The Upper Tribunal rejected the argument (advanced by the Secretary of State) that "support" in this context could only be provided by the landlord in the capacity of landlord and that these more general forms of assistance should be left out of account. The Judge said there was no reason why assistance should not count as "support" just because the landlord extended that support to non-tenants.

The decision also contains a useful summary of the approach to be followed when considering the term "support" based on the case law developed by Judge Turnbull. This is reproduced below:

- i) "Support" must be more than de minimis.
- ii) "Support" must be more than, or different from, the ordinary property management functions of a landlord.
- iii) There must be a degree of continuity in the available support, which must in principle be capable of being seen as support continuing through the tenancy.
- iv) Support commissioned by, for example, the local authority and not the landlord is not support provided on behalf of the landlord.
- v) The landlord need not be under any contractual or statutory duty to provide the support, or to be the main support provider. It is necessary to consider the extent of services in reality available.
- vi) The same result need not apply to all the occupants at one location and it is

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necessary to consider the extent of real likelihood that the particular claimant would need the support.

- vii) The extent to which such support is available from elsewhere is relevant.
- viii) The support may include the availability to the tenant of services, for example, advice and assistance going beyond that which might ordinarily be provided by a landlord, even if that service is not actually used. However, there must be a realistic prospect of the particular claimant requiring such support on something more than an occasional basis.