

FIRST-TIER TRIBUNAL

SOCIAL ENTITLEMENT CHAMBER

Held at Fox Court

on 16/05/2014

Before Judge O B Oluleye

Appellant: ██████████

Tribunal Ref. SC242/13/20486

NI No ██████████

Respondent: London Borough Of Lambeth

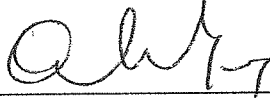
DECISION NOTICE

1. The Housing Benefit appeal is allowed.
2. The decision made on 02/03/2013 is set aside.
3. ██████████ is entitled to 3 bedroom based on her household composition.
4. For the purposes of the bedroom tax regulation (Maximum Rent, Social Sector) the dwelling comprises of 4 bedrooms. 14% Housing benefit therefore applies.

Summary Reason

5. I considered all the written evidence and took into account the oral evidence by Ms ██████████ (appellant), Mr ██████████ (Presenting Officer for Respondent) and Mr ██████████ (Representative for Appellant).
6. Ms ██████████ has lived in her home since 1995 as a co-operative tenant. Although her landlord has described her dwelling as a 5 bedroom property. It comprises of 4 bedrooms and a living room, the living room is an open plan. The landlord in an email dated 01/11/2013 on pg.42a of the appeal bundle refers to this 'through room' space as a sitting room and dinning room although it further stated that it is counted as 2 rooms. The landlord posed a question- whether the Council would consider these two rooms as one.
7. Ms ██████████ gave oral evidence that the 'through room' had always been used as a living room from when she first moved with her family. She gave evidence that she did not sign any documents describing the property as a 5 bedrooms. Neither the landlord nor the Council has shown evidence to suggest that Ms ██████████ applied for Housing Benefit for the dwelling as a 5 bedroom property.

8. She provided evidence of the living room and its description.
9. I am satisfied based on the evidence before me that notwithstanding the landlord's classification, Ms [REDACTED] household used the 'through room' space purely as a living area. It cannot be said on the evidence before me, on the household functional use, that the living room was intended for use as a bedroom or that it has ever been used as a bedroom by Ms [REDACTED] household.
10. The Council's case is that it relied on the landlord's classification of the rooms to reach its decision.
11. This is not a case in my view where Ms [REDACTED] is seeking to establish that a room which is on the face of it a bedroom should not be so classified, but that a room which is on the face of it not a bedroom should be so classified. She has not suggested that a bed could not be put in it but that the plan of the room is that it is a living room and that it had always been used as such.
12. Accordingly the appeal did succeed.

Signed Tribunal Judge:	Date: 16/05/2014
O B Oluleye	
<i>Decision Notice issued to</i>	<i>Appellant on: 16/05/2014</i>
	<i>Respondent on: 16/05/2014</i>