



Tribunals Service

Social Security and
Child Support Appeals

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STATEMENT OF REASONS FOR DECISION

This statement is to be read together with the decision notice issued by the tribunal.

Liverpool Appeal Tribunal. Held on: 9.5.2014

Appellant:	(Surname)	(Other name)	Tribunal Reg. No: SC068/13/13627
			NI No:

1. Decision under appeal

Mrs. [redacted] appealed against a decision of 11.3.2012 that her eligible rent was restricted from 1.4.2013, in accordance with amendments to the Housing Benefit Regulations 2006 which reduced Housing Benefit entitlement in properties deemed to be underoccupied. Regs.5, 12BA, A13 and B13 were held to apply so as to result in a 14% reduction to Mrs. [redacted] Housing Benefit in consequence of her house at [redacted] being three-bedroomed – Mrs. [redacted] lived at the address with her husband, and their adult son.

2. History of the appeal

i) Following notification of the above decision Mrs. [redacted] representatives, Raise, sought supersession on 29.4.2013 on the grounds that Mr. [redacted] was soon to undergo knee surgery, after which he had been medically advised to sleep alone to avoid knocking it. The local authority, Liverpool City Council, refused the request on 18.6.2013, pointing out that there was currently no exemption from the social sector underoccupancy reduction where one member of a couple used a separate bedroom for medical or other reasons.

ii) On 15.4.2014 an appeal submission from Raise was made on the basis of the size of Mr. and Mrs. [redacted]s third room - which had a floor area of 44 square feet. The submission drew attention to the size criteria contained in the Housing Act 1985, the Housing Act 2004, the Housing Health and Safety Regulations 2005, and LACORS guidance 2009, as well as several FTT decisions concerning size. It was submitted that the room – which contained bunks occasionally when Mr. and Mrs. [redacted] grandchildren visited – was too small to be considered a bedroom for the purposes of

Signed Judge: J. Waive

Date: 13.6.2014

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the Housing Benefit Regulations. A plan and photographs of the bedroom were brought to the appeal hearing. In the alternative the submission also relied upon Mrs. [REDACTED] health problems – COPD, emphysema, angina – to argue that the couple should be entitled to use separate bedrooms: although it seems from the account given that she had been stable since spending a few weeks in hospital a year earlier.

3. The Tribunal's findings and conclusion

The Tribunal reached a decision on the basis of room dimension, and therefore did not consider the alternative submission made by Mrs. [REDACTED] representatives. The Tribunal was aware of the stipulations of the Housing Acts, as well as the Housing Health and Safety Operating Guidance, and the LACORS guidance, included in the submissions as to size – but although the Tribunal was mindful of these standards none of them is binding for the purposes of the legislation now being applied. However the Tribunal considered closely the plan and photographs of the room which were supplied, and the issues raised at the hearing. The room is of regular shape, and has a level ceiling – but its size of 44 square feet is particularly minimal to constitute sufficient bedroom space, and the Tribunal's view was that the room was too small to permit reasonable occupation as a bedroom: it is slightly rectangular with the end of the bunk beds virtually touching the curtains on the window wall. The Tribunal was aware that relevant guidance suggests the possibility of commercial use by individuals, such as a lodger or boarder, and found that a room of these dimensions would be plainly inadequate as an area for living, moving, and relaxing, where there was otherwise no communal space available in the house - but even as a bedroom for a family member it was insufficient. Mrs. [REDACTED] grandchildren had sometimes slept in bunks in the room – but with the inward opening door the room had too little space to accommodate a bed, a few modest items of bedroom furniture, some places to store possessions, and some useful space for movement. People may sleep in many places if there is no alternative – but that is not enough for those places to be reasonably designated bedrooms: and in Mrs. [REDACTED] circumstances the Tribunal found that the room was deficient in the necessary properties of a bedroom.