

Casebase Number: G0007

Title of Payment: Rent Supplement



Northside Community Law and Mediation Centre
Northside Civic Centre
Bunratty Road
Coolock
Dublin 17

Date of Final Decision: 15th September 2006

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Keywords: Rent Allowance refused-surrender of local authority accommodation- “good cause”-anti-social behaviour-appeal disallowed

Organisation who assisted claimant: Northside Community Law and Mediation Centre (NCL&MC)

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Case Summary:

The Appellant was housed with her children in local authority accommodation. The Appellant surrendered this accommodation and applied for Rent Supplement to pay for alternative private rented accommodation. The stated reasons for the surrender of her local authority tenancy were: (i) alleged anti-social behaviour in the area; and (ii) the care requirements of her ill and elderly parents. The Appellant originally vacated her local authority accommodation in 2005 and applied for and was refused Rent Supplement in February 2006. The Appellant’s application for Rent Supplement was refused and her appeals to the Health Service Executive (HSE) in the first instance and finally to the Social Welfare Appeals Office were both disallowed. The Appeals Officer was not satisfied that the Appellant had sufficient “good cause” for surrendering her Local Authority tenancy.

Summary of Benefit(s):

Rent Supplement is a payment to assist with the cost of private rented accommodation for those who are dependent on social welfare. It is one of a number of payments that come under the Supplementary Welfare Allowance (SWA) Scheme. The SWA Scheme is administered by Community Welfare Staff in the HSE on behalf of the Department of Social Protection. Rent Supplement is means tested and subject to a number of conditions which are specified in Regulations. Two provisions are particularly relevant to this case: (i) the applicant must not have vacated accommodation provided by a housing authority unless he/she can satisfy the HSE that there was “good cause” for so doing; and (ii) the applicant, on being required to do so by the HSE, should have made an application to a housing authority to have their housing need assessed. If a person is refused Rent Supplement they have a right of appeal in the first instance to the HSE Appeals Office. In the event that the appeal is unsuccessful, they have a further right of appeal to the Social Welfare Appeals Office. If that appeal is unsuccessful there is a further appeal to the Chief Appeals Officer under s.318 of the Social Welfare Consolidation Act 2005.

Background:

The Appellant and her children initially went to live with her parents due to alleged anti-social behaviour in the area where she was living and the increasing care needs of her parents. In the Appellant’s statements she describes her children being unable to play in the front yard and on-going problems with anti social behaviour including youths frequently drinking in the area, and used drug needles being regularly found. The Appellant did not lodge a complaint of anti-social behaviour due to her fear of being a target of violence as a result of such a complaint. The Appellant submitted that she had to take out a loan with the Credit Union in order to install a more secure back door and higher walls as a result of the

on-going problems locally. The Appellant's elderly parents both have medical conditions. Her father suffers from Parkinson's disease and low blood pressure. His condition resulted in his admission to hospital. His health further deteriorated in early summer 2006 when he lost his sight due to a stroke, and his Parkinson's condition worsened. The Appellant's mother has osteo-arthritis. Both parents require care as they are unable to complete household tasks and chores. The Appellant vacated her local authority accommodation in December 2005 and moved in with her parents. In February 2006 the Appellant sought alternative rented accommodation because the accommodation needs of her family could not be met by remaining in the three bedroom house with her parents. The Appellant has four children - two dependent children and two adult children. The two dependent children who live with her and the two adult children live with her parents. The two adult children assist with the provision of the necessary care for their grandparents. It was submitted that the two adult children also have medical conditions. The daughter has asthma and the son has back complaints. According to the Appellant she sought a transfer of her local authority tenancy but was advised that this could take 14 to 15 years.

Date Appeal Taken:

13th March 2006

Date Appeal Heard:

18th July 2006

At Hearing:

In attendance at the hearing were the Appellant, who was accompanied by her solicitor from the Northside Community Law and Mediation Centre (NCLMC), the Superintendent Community Welfare Officer (SCWO) and a representative from the Health Service Executive (HSE) Appeals Office. The SCWO outlined the question at issue and the facts he had relied on when making his decision. The HSE Appeals Officer stated that they had relied on the same facts when disallowing the appeal. The Appellant outlined the circumstances which led to her decision to vacate her local authority accommodation. Specifically, she gave an account of the anti-social behaviour in her area and the care needs of her parents which necessitated moving near to where they lived. According to the statements by the Appellant the care needs of her parents are extensive. Assistance with basic daily functions is required on an on going basis and alternative care arrangements had to put in place in order that the Appellant could attend the oral hearing. The Appellant submitted that she had sought a transfer to more suitable accommodation prior to vacating her home but was advised that this could take 15 years. When asked by the Appeals Officer how she was paying the rent while the appeal was being determined, the Appellant stated that she had sold some of her possessions and relied on money borrowed from her family. The Appeals Officer asked if the Appellant was working. The Appellant stated that she had been employed on a Community Employment Scheme up until a few weeks before the hearing at which point she had to stop work as she could not provide for her parents care needs particularly due to the commuting time from the house to her workplace.

The solicitor representing the Appellant submitted the following points:

- In acknowledging that the HSE must be satisfied that their was "good cause" for vacating her local authority home the reasons given should be considered; i.e. antisocial behaviour, lengthy local authority waiting lists which prevent access to alternative local authority accommodation, and the needs of the Appellant's parents.

- The matter of antisocial behaviour in the area is well known to the authorities and the reason the Appellant had made no complaint was due to fear of reprisals.
- The Appellant had applied for a transfer to more suitable accommodation a number of years ago but there was no indication as to when this could be granted.
- The needs of the Appellant's parents required that she act with urgency to meet their care needs. According to the Appellant this had caused her children to miss school.
- The move to the area where her parents live has provided stability for the Appellant and her children.
- The deterioration in the health of the Appellant's parents requires an increased level of care to be provided into the future.
- It was also submitted by the solicitor that because of the advice given by a TD to the Appellant, she had a reasonable expectation of being paid a Rent Supplement on moving to private rented accommodation.

Decision:

Appeal DISALLOWED

Relevant Evidence put forth by Social Welfare Services:

There was no evidence put forth by SWCO or the HSE. The opinion was based on documents filed on the case and evidence given by the Appellant at the oral hearing.

Relevant Evidence put forth by Appellant:

- Letter setting forth grounds for appeal;
- Letter from the National Council for the Blind of Ireland confirming that Appellant takes care of her father;
- Letter from Appellant's former employer confirming that she has ceased employment to care for her parents;
- Letter from doctor confirming the back condition of Appellant's son;
- Letter from doctor confirming asthma of Appellant's daughter and the aggravation of the condition that is caused by stress;
- Letter from doctor stating that Appellant was required to move to care for her parents;
- Letter from doctor stating that Appellant's father suffers from Parkinson's Disease, mother suffers from osteo-arthritis and that it would be beneficial to their health to have Appellant nearby to care for them; and
- Letter from Carers Association stating that Appellant is attending training as a home carer and is registered through them.

Appeal Officer's Reasoning and Conclusion:

The Appeals Officer noted that conditions at Appellant's former residence may have been uncomfortable, but did not believe the situation to be so serious as to warrant the surrender of her local authority housing. Specifically, the Appeals Officer observed that the anti social behaviour did not include serious assault or damage to property. The Appeals Officer acknowledged that the Appellant's parents had care needs but observed that there was an issue of "credibility" in respect of the extent of their needs. In this context the Appeals Officer referred to the fact that the client had been engaged in employment up until recently. The fact that the Appellant was employed at the time of surrendering her local authority housing does not appear to support her contention as to the urgency of her need to move. In summary, the Appeals Officer did not accept that there was sufficient "good cause" for the Appellant to take the "drastic" step of leaving her local authority accommodation. The appeal was therefore disallowed.

Our Observations:

The legislation governing the award of Rent Supplement requires that a person not leave local authority accommodation unless they can demonstrate "good cause" for so doing. The Appeals Officer's interpretation of "good cause" appears to rule out non-physical harm. This interpretation appears to be at odds with the statutory definition of anti-social behaviour as set out in the Criminal Justice Act 2006, which refers to *'harassment (...) significant or persistent alarm, distress, fear or intimidation, or (...) significant or persistent impairment of their use or enjoyment of their property'*. The objective of this condition is reasonably clear. The State in providing local authority accommodation will not consider the provision of assistance to fund alternative private rented accommodation if your housing needs have already been adequately met. Therefore, if a person chooses to leave their local authority housing they must prove that the reason for this action warrants alternative housing support in the form of Rent Supplement. The question will be whether the applicant has established "good cause" for leaving. In this case the Appeals Officer adopted quite a restrictive interpretation of the meaning of "good cause", relying on the absence of any "serious" assault on the Appellant or her family. Furthermore, in view of the Appellants work commitments, the Appeals Officer questioned the Appellant's "credibility" in respect of her assertion that she had to move to care for her parents. It is notable that there is no statutory definition of the meaning of "good cause". Each case must therefore be determined on its merits. While the Appellant's actions may be considered reasonable from her perspective, the Appeals Officer suggests that greater evidence of an imperative to move would be required in order to establish "good cause". It is also relevant that regardless of the circumstances that gave rise to the Appellant vacating her local authority accommodation, the matter of her need for housing remains. In the absence of the local authority providing housing or other viable alternative, it is likely that the Appellant's housing need will eventually fall to be met under Supplementary Welfare Allowance legislation.

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