

Casebase Number: G0027

Title of Payment: Rent Supplement



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

Date of Final Decision: 22nd December 2009

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Keywords: Rent supplement discontinued-3 offers of accommodation refused- not valid offers- appeal-allowed

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

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Case Summary:

The Appellant was in receipt of Rent Supplement (RS) which was discontinued by the Health Service Executive (HSE) following the Appellant's rejection of three offers of accommodation by a local authority. The Appellant appealed this decision to the Social Welfare Appeals Office whereby it was found, in the circumstances, that the three offers of accommodation from the local authority were not valid offers for the purposes of the legislation, as they were unsuited to the Appellants situation. In addition, the rejection of the offers did not happen within an 18 month period. Thus the decision by the HSE to discontinue RS was invalid. The appeal was allowed and RS was awarded.

Summary of Benefit(s) Received:

The Appellant was in receipt of RS from 2002. The grounds of entitlement to RS are provided by Part III of the Social Welfare Consolidated Supplementary Welfare Allowance Regulations (2007). In January 2003, the Appellant made an application for council accommodation with her local county council specifying her areas of preference. In April 2009, the HSE informed the Appellant that her RS was to be discontinued on foot of the three refusals of accommodation from the local county council. The Appellant filed an appeal against this decision.

Background: The Appellant is a single mother. She had been in receipt of RS from 2002 and was in private rented accommodation during that period. In early 2003, the Appellant made an application for local authority accommodation, specifying her areas of preference. In late 2006, the Appellant attempted to have one of these areas removed from her list of preferences due substantially to its unsuitability to her son's particular educational needs and social difficulties and also the needs of her elderly mother. The Appellant also tried to have other areas removed from her list of preference on the same basis. However, the Appellant was advised by the local authority that she was not permitted to remove the particular areas of preference from her list. In early 2007, the Appellant was offered accommodation by the local authority in an area in which the Appellant had attempted to have removed from her list in 2006. The Appellant refused this offer of accommodation. Shortly afterwards the Appellant's mother passed away. Subsequent to this, the Appellant was again offered accommodation in an area which she had specified previously to be unsuitable to the needs of her son. Again she rejected the offer on this basis. In late 2007, a political representative corresponded with the local authority enquiring as to the position of the Appellant on the housing list and confirmed that the Appellant had requested that particular areas be removed from her list of preferences. In late 2008, the Appellant was

offered accommodation in an area which had not been on her list of preferences at all and rejected it on the basis that it was unsuitable to the needs of her son. Shortly after this the Appellant was informed that her application for housing was now closed for a two year period as she had refused three offers for accommodation from the local authority. The HSE also wrote to the Appellant and informed her that she was also ineligible for RS having refused three offers of accommodation from the local authority. The Appellant appealed this decision in late 2009 and she was granted an oral hearing.

Date Appeal Taken:

24th April 2009

Date Appeal Heard:

6th October 2009

At Hearing:

The Appellant was represented by a Solicitor from the Northside Community Law and Mediation Centre (NCL&MC). The Appeals Officer (AO) reviewed the decision by the HSE to refuse RS. The Appellant explained that she was in receipt of an Urgent Needs Payment from HSE in order to pay her rent. She referred to the network of supports, which her son was enjoying at his current location, including a certain local school and a family centre. The Appellant's legal representative, in line with the written submissions, outlined that the deviation of the local authority from its own Scheme of Letting Priorities in the offers made, the length of the offer process and the manner in which this ran contrary to the relevant time period stipulated in the Social Welfare Consolidation Regulations was not properly or lawfully grounded. As consequence this was contrary to the Equal Status Act, the Irish Constitution and the European Convention of Human Rights.

Decision:

Appeal ALLOWED

Relevant Evidence put Forth by the Social Welfare Appeals Office:

No evidence was presented by the Appeals Officer.

Relevant Evidence put Forth by Appellant:

The Appellant referred to the written submissions in which included a letter from the Office of the Ombudsman stating that following a complaint made by the Appellant regarding her treatment by the local authority, she had been re-instated onto the housing list.

Appeal Officer's Reasoning and Conclusion:

The AO considered the letter of the Ombudsman regarding the re-instatement of the Appellant onto the housing list and noted that it lent weight to the assertion that the processing of the Appellants application may not have been entirely in line with the criteria governing the allocation of priorities under the Scheme. After the examination of dates involved, the AO was satisfied that the refusal of the orders made did not occur within a continuous 18 month period, as required by legislation.

The Appeals Officer considered the Appellant's arguments in respect of the length of time that it had taken her to obtain the resources her son required and to access the services she needed, including her representation at her oral hearing. Having examined all the evidence in the case, including evidence produced at oral hearing, the Appeals Officer found that the appeal in this case was well grounded and should succeed.

Our Observations:

The contested issue in this appeal was the criteria used by the HSE in assessing the Appellant's entitlement to RS and the compatibility of the application of this criteria with the priorities set out under the Scheme of Letting Priorities and the Housing Acts 1966-1998. It should be borne in mind by any applicant in receipt of RS and seeking Local Authority Accommodation that there is an intertwined obligation on Local Authority and the HSE to conduct the process appropriately and any offers of accommodation to the applicants should be valid offers, along the lines of their preferences and needs. It seems that the AO was swayed by the credibility of Appellant. The report from the Administrative Officer at the Housing Department states that the criteria used to deny the appeal was in accordance with the Councils Scheme of Letting Priorities Refusals of Accommodation 1.8. Yet the appeal was allowed under current legislation of Scheme of Letting Priorities and Housing Acts and Part 3, Section 9 of the Social Welfare Consolidated Supplementary Welfare Allowance Regulation (2007) which states that: *It shall be a condition of any claimant's entitlement to a supplement under sub-article (1) [provided] that: (f) the claimant has not refused for a third time, within any continuous 18 months period commencing on or after 31st January 2004, an offer of accommodation provided by either a housing authority or a body approved by the Minister for the Environment, Heritage and Local Government for the purposes of section 6 of the Housing (Miscellaneous Provisions) Act 1992 (including accommodation provided under the scheme known as the Rental Accommodation Scheme) and, where such a refusal has occurred, a supplement under sub-article (1) shall not be payable for a period of 12 months from the date of the refusal.*

Based on the original decision, the Appeal Officer required "a substantial degree of proof" that the Appellant's refusals had not occurred within a continuous 18 month period and in light of the "failure" of the HSE to consider the above provisions, the Appeals Officer found in favour of the Appellant. It is quite clear that the evidence presented by the appellant would have been enough to establish eligibility for this benefit on its own; if the HSE had conducted a proper investigation, the appeal would have been allowed.

For more information on Rent Supplement and Local Authority Housing, useful links are:

- **Citizens Information (Social Welfare):**
http://www.citizensinformation.ie/en/social_welfare/social_welfare_payments/supplementary_welfare_schemes/rent_supplement.html
- **Citizens Information (Local Authority Housing):**
http://www.citizensinformation.ie/en/housing/local_authority_and_social_housing/applying_for_local_authority_housing.html
- **The Department of Environment, Community and Local Government:**
<http://www.environ.ie/en/DevelopmentHousing/Housing/SocialHousingSupport/LocalAuthorityHousing/>
- **Social Welfare Consolidated Supplementary Welfare Allowance Regulation (2007):**
<http://www.irishstatutebook.ie/2007/en/si/0412.html>

For *more information*, contact us at:

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