

## **RESIDENTIAL PROPERTY TRIBUNAL**

**Property** : 65 Furze Way,  
Wolverton,  
Milton Keynes  
MK12 5AP

**Appellant** : Mrs. Joyce Dimmock

**Respondent(s)** : Milton Keynes Council

**Case number** : CAM/00MG/RTB/2005/0003

**Date of Application** : 15<sup>th</sup> August 2005

**Type of Application** : Appeal against denial of tenants' right to buy  
(Schedule 5 Housing Act 1985 as amended ("the 1985 Act"))

**The Tribunal** : Mr. Bruce Edgington (lawyer chair)  
Mr. David Brown FRICS MCI Arb

---

### **DECISION**

---

#### **Introduction**

1. The Appellant has applied to the Respondent to exercise her right to buy the property which is presently let by the Respondent to the Appellant.
2. By notice to the Appellant dated 13<sup>th</sup> June 2005, the Respondent refused the right to buy stating (a) that the property was first let before 1<sup>st</sup> January 1990, (b) that it is particularly suitable for occupation by elderly persons and (c) was let for occupation by a person aged 60 or more.
3. This appeal has been lodged within the 8 week statutory period allowed for such appeals.

## **The Law**

4. The principle Statute which sets out the qualifying conditions to the right to buy is the 1985 Act. Schedule 5 deals with the cases where the right to buy does not apply and the Respondent relies upon Paragraph 11 which says:-

- 11(1) The right to buy does not arise if the dwellinghouse*  
*(a) is particularly suitable, having regard for its location,*  
*size, design, heating system and other features, for*  
*occupation by elderly persons, and*  
*(b) was let to the tenant or a predecessor in title of his*  
*for occupation by a person who was aged 60 years or*  
*more (whether the tenant or predecessor or another person)*  
*(2) In determining whether a dwelling is particularly suitable,*  
*no regard shall be had to the presence of any feature provided by the*  
*tenant or a predecessor in title of his*  
*(3) ...(not applicable to this appeal).*  
*(4) .... “*  
*(5) .... “*  
*(6) This paragraph does not apply unless the dwellinghouse*  
*concerned was first let before 1<sup>st</sup> January 1990*

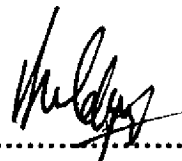
## **The Facts of This case**

5. In her application to this Tribunal the Appellant states that the property was first let to her in May 1994 on which date the age of the oldest person living at the property was 73. She was 62 at the time. She describes the property as being a bungalow with local shopping about 2 kilometres away and public transport about 3 kilometres away. She then says “The council have refused my application to buy the property based on paragraph 11 of Schedule 5 of the Housing Act 1985. I would therefore like to know how it has been possible for five similar properties like my own to be bought under the right to buy scheme. I feel that it would be discriminative for my application to be rejected on this basis”.
6. A copy of the application form was sent to the Respondent for its observations. It was asked for the date when the property was first let to any tenant. The answer is 2<sup>nd</sup> May 1977. The Council goes on to say that there is a local shop within ¼ mile and a main shopping area including a Tesco store within ½ to ¾ of a mile away and a bus route along Stratford Road. It is said that applications in respect of 13,17 and 20 Furze Way have been refused on the same grounds.

7. In view of this the Tribunal caused a letter to be written to the Appellant on the 12<sup>th</sup> September 2005 pointing out the facts asserted by the Respondent and confirming that as both parties had asked for the matter to be dealt with by way of paper determination a decision would be made on or after 7<sup>th</sup> October. The letter also confirmed that either party could ask for a hearing.
8. The Appellant wrote again on the 23<sup>rd</sup> September enclosing photographs and pointing out that numbers 29, 35 and 38 had been purchased by tenants.
9. On the 17<sup>th</sup> October 2005 the Tribunal wrote again to the Appellant asking whether she had any comments to make on the Respondent's information and, if so, they should be submitted by 25<sup>th</sup> October. None was received.

#### **Decision**

10. This appeal is refused. It is clear to the Tribunal from the description and photographs of the property and the proximity of amenities, that this property is particularly suitable for occupation by elderly persons. It was first let before the 1<sup>st</sup> January 1990 and has clearly been let for occupation by the Appellant who was 62 at the time of the letting to her. Thus, all the criteria in paragraph 11 of Schedule 5 of the 1985 Act are satisfied.
11. The Tribunal does have some sympathy with the point made by the Appellant that it would seem unfair, on the face of it, for some similar properties in the locality to have been sold under the right to buy scheme. The Tribunal has no knowledge of the facts in those cases. They may not have satisfied all the conditions required i.e. being let for occupation by someone over 60. However, even if those transactions did satisfy all the criteria, this Tribunal has no power to allow an appeal on those grounds.



.....  
**Bruce Edgington**  
**Chair**  
**17.11.05**