

RESIDENTIAL PROPERTY TRIBUNAL FOR THE EASTERN RENT ASSESSMENT PANEL

Property : 62 Quarrendon Avenue, Aylesbury, Bucks HP19 9JR

Appellant : Mrs A Moffatt

Respondent : Aylesbury Vale District Council

Case Number : CAM/11UB/RTB/2006/0004

Date of Application : 6th June 2006

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

The Tribunal : Mr Andrew Dutton(Lawyer Chair)
Miss Marina Krisko BSc(ESTMAN)FRICS
Mrs N Bhatti

**Date of meeting and
Inspection** : 20th July 2006

DECISION

Introduction

1. On the 6th June 2006 Mrs Moffatt applied to the Tribunal for a determination pursuant to paragraph 11 to Schedule 5 of the Act appealing against the Respondents denial of their right to buy the Property from the Council. A previous application had been out of time.
2. The reasons for the denial were that
 - (a) The Property was first let before the 1st January 1990;
 - (b) That it was particularly suitable for occupation by elderly persons;
 - (c) It was let for occupation by a person aged 60 years or more.
3. The present application had been lodged within the timescales applicable for such appeals, which is eight weeks.
4. On a review of the application and the Respondents notice indicating an intention to oppose the Appeal, the Tribunal considered that the matter was capable of being dealt with on the basis of a paper determination without hearing. The parties were informed of this decision and were invited to make written submissions to the Tribunal in advance of inspection of the Property.

Evidence:

5. In the application lodged with the Tribunal by Mrs Moffatt described the property and the services available. Mr Peroni, Mrs Moffatt's grandson had written to the Tribunal on 6th Jun3 2006 and we noted all that was said.
6. The Council's response was contained on the tribunal's printed form and repeated the opposition to the appeal confirming that Mrs Moffatt was over 60 when she took the tenancy and that the property was first let in 1970.

Inspection:

7. The Tribunal inspected the Property on 20th July 2006. It is a bungalow with pitched roof in an enclave of a number of similar properties. The accommodation comprises a living room, kitchen, bedroom ,bathroom with full suite and a utility room without a window. There is ample cupboard space and a small yard to the rear with a small integral outbuilding. The windows were in a poor condition showing signs and rot and really need replacing. Part of the guttering was sagging and had been for sometime judging by the water stains on the wall. The property had the benefit of a full gas central heating system. Access to the property was gained by a sloping path which would benefit from the installation of a hand rail.
8. The property was well situated for bus routes, a stop just a few yards away, and there were shops locally and within ½ mile a Tesco superstore and other well known electrical and household stores.

The Law:

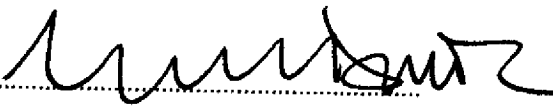
9. The relevant section of the Act applicable to this application is to be found at Schedule 5 paragraph 11 thereof. Paragraph 11 states as follow:
 - 11(1) The right to buy does not arise if the dwellinghouse*
 - (a) is particularly suitable, having regard for its location, size, design, heating system 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) –(5) are not applicable to this appeal.*
 - (6) This paragraph does not apply unless the dwellinghouse concerned was first let before 1st January 1990.*

Decision:

10. For the Council to be able to deny Mrs Moffatt the right to buy this Property they need to satisfy the Tribunal that the provisions of paragraph 11 to Schedule 5 of the Act apply. There appears to be no disagreement between the parties that the Property had been let to Mrs Moffatt for many years, certainly before 1st January 1990 and that at the time of the letting she was aged over 60. Accordingly the provisions of paragraph 11(1)(b) have been fulfilled.
11. The issue we need to determine is whether of not this property is *particularly suitable* for an elderly person having regard to the matters set out in paragraph 11(1)(a). We find that it is. The Property, being a one-bedroom bungalow, is clearly particularly suitable for an elderly person. The

Act does not require us to consider whether the elderly person is frail or disabled. Indeed the provision is made for those persons by other provisions of the Act. We take it to mean it is individuals who are able to live independently although of course there may be some limitations brought about by age. We accept that the property requires attention but that is not a ground for purchasing. The slope, although not ideal, is, in our finding not at such a gradient as to make access difficult for an elderly person who is not frail. The property is well situated for amenities and transport.

12. Accordingly, taking these matters in the round, it does seem to us, as we have indicated above, this is a Property that is particularly suitable for elderly persons and accordingly the Appeal is refused.

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Chairman

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31st Jun 2006
Dated