



THE VALUATION TRIBUNAL FOR ENGLAND

Appeal Number: 2465M142876/037C

11 August 2015

Council tax – carer's disregard - Council Tax (Administration and Enforcement) Regulations 1992, SI 1992 No. 613, reg. 14 – Limitation Act 1980, s.9.

H. S.

Appellant

v.

**Leicester City Council
(Billing Authority)**

Respondents

Before: The President (Professor Graham Zellick QC)

Appearances

Neither party appeared, but agreed to a decision without a hearing under reg. 29 of the Procedure Regulations.

Ms Ferhana Bhogadia of the Welfare Rights Service, Leicester City Council, submitted written representations on behalf of the Appellant.

Mrs Krishna Adatia, Appeals Officer, Revenues and Benefit Service, Leicester City Council, submitted written representations on behalf of the Respondents.

Introduction

1. This appeal concerns the backdating of a carer's disregard for council tax under the relevant legislation. The billing authority (BA) accept the appellant's eligibility for the disregard – indeed, it is common ground that he has met the requirements since 1996 – but are willing to backdate it only six years from the date of the appellant's application on 3 December 2012. They base this decision on previous decisions of this Tribunal.
2. The appeal was originally listed before a panel but was adjourned when it emerged at the hearing that it should be dealt with under Practice Statement A10 (*Points of Law and Principles of Valuation*). Both parties agreed to my deciding the case without a further hearing on the basis of written submissions.

Carer's disregard

3. It is unnecessary to set out the qualifying criteria as there is no dispute about it. What is important to establish, however, is the duty on the BA: is it for the council tax payer to make an application to the BA (as is the case with some council tax reductions and exemptions such as disability band reduction) or is there a burden on the BA to satisfy itself that the disregard does not apply (as with the single person discount, for example)?
4. The carer's disregard falls into the latter category where it is for the BA to take reasonable steps to ascertain whether the calculation of the chargeable amount of council tax is subject to a discount: Council Tax (Administration and Enforcement) Regulations 1992, SI 1992 No. 613, reg. 14.
5. The appellant did in fact make an application as soon as he became aware of the entitlement in December 2012, but in fact had been awarded the disability reduction in the 1990s and at that time the BA's officer was made aware that the appellant was also a carer. That officer took no steps either to advise the appellant of his right to the disregard or to ensure that the BA applied it.
6. The BA rely on my decision in *Arca v. Carlisle City Council* [2013] RA 248 in which I held that in cases of this kind s. 9 of the Limitation Act 1980 applied.
7. Section 9 does indeed apply but its effect seems to have been widely misunderstood and misapplied. I made the same mistake myself in *Smith v. Nottingham City Council* [2013] RA 404.
8. The Limitation Act sets limits to when proceedings must be commenced in different types of action. Section 9 governs the "Time limit for actions for sums recoverable by statute". The effect of this provision is that the claim must be commenced within six years of the accrual of the cause of action, as explained in my recent decision in *Holdsworth et al v. City of Bradford MDC*, 6 July 2015, Appeal No: 2465M142876/037C.

9. In my view, that date for the purpose of these proceedings is December 2012. Provided the appellant has made his claim by December 2018, which of course he has, he is entitled not only to proceed but to claim return of the entire amount of overpaid council tax back to 1996 when he first became eligible.
10. This is therefore distinguishable from the situation where the council tax payer is required to make an application, as in *Arca*.
11. The failure of the BA to act on the knowledge it acquired in the 1990s is significant in two respects. First, it means the BA cannot claim to have taken reasonable steps to ascertain whether the disregard applied. Secondly, it absolves the appellant from any responsibility for failing to alert the BA to his situation as a carer.

Conclusion

12. I conclude that the appeal succeeds and the BA must recalculate the appellant's council tax bill on the basis that he should have been awarded the carer's disregard from 1996.

ORDER

The respondent Billing Authority is hereby ordered, pursuant to the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, SI 2009 No. 2269, reg. 38(1)(c) and (d) and (9), to reverse its decision regarding the Appellant's carer's disregard and recalculate the amount of council tax payable back to the agreed date in 1996 when he first qualified for the disregard and to do so within two weeks of the date of this Order.



President



Registrar
11 August 2015