

VALUATION TRIBUNAL FOR ENGLAND



Council tax liability appeal; whether the refusal to backdate the grant of a single person discount beyond 1 April, 2008 is unfair; poor level of communication possibly caused by location of the appeal property and incorrect delivery of mail; Arca v Carlisle City Council (2013) VTE: 0915M85513/254C; unreported; appeal dismissed.

APPEAL NUMBER: 4415M136193/254CAD

BETWEEN:	Taxpayer	Appellant
	and	
	Billing Authority	Respondent

PANEL: Mr. B. Varley (Chairman)
Mr. G. Trickett

SITTING AT: The VTE Offices, Hepworth House, Trafford Court, Doncaster

ON: 2 July, 2015

APPEARANCES: The taxpayer
The billing authority's representative

Summary of Decision

1. The appeal is dismissed.

Introduction

2. This appeal was brought against the respondent billing authority's (BA) decision dated 9 June, 2014 when it rejected the taxpayer's application to backdate the grant of a single person discount earlier than 1 April, 2008.
3. The taxpayer appealed the BA's decision to the tribunal under s.16(1) of the Local Government Finance Act 1992.

CTL Decision

4. A single person discount of 25% is provided by s.11 of the 1992 Act and the grant thereof is appropriate in circumstances where a dwelling is occupied by just one qualifying adult occupier.
5. This is the second listing of the appeal and the absence in this decision of a reference to any statement or item of evidence placed before the panel by the parties should not be construed as it being overlooked.

Issue

6. Whether the BA's decision to reject granting the single person discount between 24 November, 2004 and 31 March, 2008 is correct.

Evidence and Submissions

7. Both parties have provided written and oral evidence in support of their respective positions.
8. The taxpayer says he was unaware until recently that the BA had not allowed him the discount from the date at which he started to pay council tax on the dwelling in November 2004. He had paid the annual demands without quibble. He contends that the BA was aware of his circumstances from the outset, and should therefore have allowed him the discount from that date. He recalls speaking by telephone with a representative of the BA and believes the BA should be able to access that call if, as it publicises, it records telephone calls made to its offices. He denies receiving questionnaires from the BA in 2004 and 2005 seeking information about his household circumstances. In this respect, he produced photographs to demonstrate the difficulties for the post-office and even the emergency services to identify and locate the dwelling given its separate access away from its neighbours. The taxpayer has had experience of some mail being delivered to the nearby retail premises because of their similar address.
9. The BA issued two enquiry forms when it became aware of the appellant's taking up residence in the property; the BA has a duty to consider relevant discounts when issuing a demand and she refers the panel to reg. 3 of the Council Tax (Administration and Enforcement) Regulations 1992, as amended. The second form was issued because there was no response to the first, but again, the second form was not returned. Those forms would have alerted the BA to the appellant living alone and his likely entitlement to the single person's discount.
10. In deciding to grant the discount only for six years, back to 2008, the BA had had regard to the decision of the Valuation Tribunal for England in respect of *Arca v Carlisle City Council* (2013) which, while not a case on single person discount, was one that considered and then applied the six year limitation found in s.9 of the Limitations Act 1980.
11. Responding to the panel's questions, the BA's representative accepts that s.11 of the 1992 Act does not contain expressed or implied date limitations.

Decision and Reasons

12. In full and fair consideration of the evidence presented, the panel finds for the BA and

upholds its decision to limit the period of backdating of the discount to 1 April, 2008, notwithstanding the claims and counter-claims as to whether or not it was aware in 2004 that the taxpayer was in sole occupation of the dwelling.

13. S.11 allows a 25% discount to be granted against the council tax levied where a dwelling has a single, qualifying adult occupier. The panel finds no actual limitation by date, whether express or inferred, within s.11.
14. The appeal, however, turns on the interpretation given by the Tribunal president, Professor Zellick, to a not too dissimilar provision in his determination of the *Arca* appeal. That case considered relief against council tax as permitted by the Council Tax (Reduction for Disabilities) Regulations 1992 where a dwelling has a room or rooms adapted or dedicated to provide assistance to a disabled resident. Reg. 3 of those Regulations similarly has no reference to backdating. Excluding occasions where misrepresentation can be shown, the president was persuaded, in *Arca*, that s.9 of the Limitations Act had equal force in circumstances where a public body (the BA) can grant relief against council tax, to the same six year years for which a public body can retrospectively demand payment of the tax.
15. The panel's attention is particularly drawn to paragraph 68 of *Arca* in which Professor Zellick referred to previous and differing decisions of panels and BAs in not dissimilar cases, which had given rise to "a most undesirable situation and one hardly conducive to justice".
16. In paragraph 69 of *Arca*, Professor Zellick again alludes to previous conflicting decisions in cases involving the Reduction for Disabilities Regulations mentioned above. He states that "until the matter is settled by a higher court, or the regulation is amended, billing authorities would be well advised not only to regard this decision as representing a correct statement of the law but also as the interpretation almost certainly to be applied by this Tribunal in any future appeal raising from the same point unless fresh legal arguments can be made".
17. The panel finds the *ratio* in *Arca* to apply to the interpretation in the subject appeal. The six year limit determined by the president, when backdating relief in the *Arca* appeal, must be followed when determining how far back the BA should grant the single person's discount in respect of the appellant's council tax account, and all similar determinations.
18. Accordingly, the panel finds for the respondent BA and the appeal is dismissed.

Date: 29 July, 2015

Appeal number: 4415M136193/254CAD

PH/SM