

## When is temporary accommodation provided by a local authority occupied as a “dwelling”?

Dacorum Borough Council v Ms Chenalee Bucknall [2017] EWHC 2094 (QB)

Temporary accommodation provided to an individual is not occupied as a “dwelling” for the purposes of ss.3 and 5 of the Protection of Eviction Act 1977 (“the PEA 1977”) when that accommodation is provided by a local authority in fulfilment of its interim housing duty under s.188 of the Housing Act 1996 (“HA 1996”).

The issue in Dacorum Borough Council v Ms Chenalee Bucknall [2017] EWHC 2094 was whether an individual’s continued occupation of temporary accommodation, was accommodation occupied as a “dwelling” under ss. 3 and 5 of the PEA 1977, once a full housing duty was accepted under s.193 HA 1996?

The Appellant was offered temporary accommodation under s.188 of the HA 1996 following her homelessness application to the Respondent. That accommodation was granted pursuant to a licence. After the Respondent’s s.184 decision that a full housing duty was owed, the Appellant’s occupation of the accommodation continued under s.193(2) of the HA 1996. The Appellant was told to remain in the temporary accommodation she had been provided with.

After six weeks the Respondent offered the Appellant settled accommodation. The Appellant refused the offer as she deemed the property unsuitable. On review, the Respondent upheld its decision that the settled accommodation was suitable and discharged duty. It served the Appellant with a Notice to Quit and commenced possession proceedings. The Notice did not comply with s.5 of the PEA 1977 as it did not contain the prescribed information set out in The Notices to Quit etc. (Prescribed Information) Regulations 1988).

At first instance the court granted the Respondent a possession order on the basis that temporary accommodation fell outside the scope of protection offered by the PEA 1977 as it was provided by the local authority in fulfilment of its homelessness duty under part VII. The Appellant Appealed.

In allowing the appeal, the High Court held that it was a question of fact whether an individual’s continued occupation of temporary accommodation, initially offered under s.188 and then subsequently under s.193(2), when a full housing duty was accepted, was occupation of a “dwelling” for the purposes of s.3 of the PEA 1977. A factor was whether the occupation was more than transient. On the facts of the present case, the Appellant’s temporary accommodation was occupied as a “dwelling” and s.5 of the PEA applied to her licence. Her occupation had not been properly determined due to the defective notice.

Elizabeth Dwomoh / 1st Sep 2017

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