

Decisions of Upper Tribunal (Administrative Appeals Chamber) on Housing Benefit and Council Tax Benefit

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Case	Date of decision	Legislation in issue	Keywords
<u>MF v Redcar and Cleveland Borough Council (HB) [2015] UKUT 634 (AAC) CH/2391/2015</u>	16/11/2015	Regulation B13 of the Housing Benefit Regulations 2006	Any element of a decision is within the First-tier Tribunal's jurisdiction on an appeal even if that element was not changed in the latest decision and was not even considered by the decision maker
<u>Secretary of State for Work and Pensions v MM and Northumberland County Council (HB) [2015] UKUT 624 (AAC) CH/2100/2015</u>	10/11/2015	Regulation B13 of the Housing Benefit Regulations 2006	Further explanation of why regulation B13 cannot be interpreted as freestanding and without reference to other provisions of the housing benefit legislation
<u>CE v Maldon District Council (HB) [2015] UKUT 565 (AAC) CH/2062/2015</u>	20/10/2015	Regulation 8 & 9 of the Housing Benefit Regulations 2006	Liability commerciality and contrivance – letting at low rent by son to terminally ill mother – <u>CH/296/2004</u> upheld – a letting may still be commercial even if one that the landlord would only contemplate with a relative or close friend.

<p><u>CB v Manchester City Council and the Secretary of State for Work and Pensions (HB) [2015] UKUT 556 (AAC)</u> CH/3440/2014</p>	15/10/2015	Regulation B13 of the Housing Benefit Regulations 2006 (as amended)	The basis on which a flat is let and rent calculated is not decisive of number of bedrooms
<p><u>Liverpool City Council v NM and WD (HB) [2015] UKUT 532 (AAC)</u> CH/2606/2014</p>	24/09/2015	Regulation 12B(5)(b) Sub-paragraph 1(a)(ii) of Schedule 1 of the Housing Benefit Regulations 2006	Whether service charges for the supply of water in the communal areas of either sheltered or supported housing are eligible for housing benefit.
<p><u>ML v Royal Borough of Kensington & Chelsea (HB) [2015] UKUT 10 (AAC)</u> CH/4784/2014</p>	26/08/2015	Regulation 8 & 9 of the Housing Benefit Regulations 2006	Liability, commerciality and contrivance – whether appellant was a sub-tenant – local authority’s failure to explain how it reached its conclusion from the available evidence
<p><u>JM v London Borough of Tower Hamlets (HB) [2015] UKUT 460 (AAC)</u> CH/4490/2014</p>	18/08/2015	Regulation 104(1) of the Housing Benefit Regulations 2006	Recovery of overpayments – proper application of regulation 104(1) two stage process required – calculation of benefit due then deduction from recoverable overpayment – the Court of Appeal’s decision in <u>R(H) 5/04</u> applied
<p><u>AT v Broxstowe Borough Council & JH (HB) [2015] UKUT 388 (AAC)</u> CH/530/2015</p>	08/07/2015	Regulation 95(1)(b) of the Housing Benefit Regulations 2006	Tenant cannot put in issue title of landlord to grant tenancy: <u>Industrial Properties (Barton Hill) Ltd v Associated Electrical Industries Ltd</u> [1977] QB 580 – calculation of rent arrears where set-off is claimed

<p><u><i>KK v Sheffield City Council (CTB)</i></u> <u>[2015] UKUT 367 (AAC)</u> CH/5/2015</p>	<p>29/06/2015</p>	<p>Rule 8(2)(a) & 23(5) of the Tribunal Procedure (First-tier Tribunal) (Social Entitlement Chamber) Rules 2008</p>	<p>Whether oral hearing necessary prior to striking out an appeal.</p>
<p><u><i>CB v Liverpool City Council (HB)</i></u> <u>[2015] UKUT 359 (AAC)</u> CH/144/2015</p>	<p>24/06/2015</p>	<p>Regulation 7(13) of the Housing Benefit Regulations 2006</p>	<p>Approach to be adopted when claimant is imprisoned with possibility of release on curfew terms after 13 weeks</p>
<p><u><i>Secretary of State for Work and Pensions v AM and Northumberland County Council (HB)</i></u> <u>[2015] UKUT 360 (AAC)</u> CH/62/2015</p>	<p>23/06/2015</p>	<p>Article 8 of the European Convention on Human Rights</p>	<p>Bedroom – grandson living with claimant part-time – <u><i>MR v North Tyneside Council and Secretary of State for Work and Pensions (HB)</i></u> <u>[2015] UKUT 0034 (AAC)</u> confirmed – no human rights issues</p>
<p><u><i>LB v London Borough of Lambeth and Secretary of State for Work and Pensions (HB)</i></u> <u>[2015] UKUT 237 (AAC)</u> CH/3041/2012</p>	<p>11/05/2015</p>	<p>Regulation 29(3) of the Housing Benefit Regulations 2006 Regulation 19(3) of the Council Tax Benefit Regulations 2006</p>	<p>Whether claimant could reasonably be expected to realise they were overpaid – estimated earnings case – proper method of calculating earnings from employment with variable hours and changing wages – periods over which the average should be taken – recoverability of overpayments where earnings higher than the calculation – effective dates for supersession</p>

<p><u>Secretary of State for Work and Pensions v IB (HB) [2015] UKUT 282 (AAC)</u> CSH/734/2014</p>	<p>06/05/2015</p>	<p>Regulation B13 of the Housing Benefit Regulations 2006 (as amended)</p>	<p>Bedroom – re-designation as living room on professional advice – discrimination – <u>Secretary of State for Work and Pensions v Nelson and Fife Council (HB) [2014] UKUT 0525 (AAC)</u> followed – appropriate test whether room could be used as a bedroom looking at the property as if it was vacant (not its actual use)</p>
<p><u>GH v Scarborough Borough Council (HB) [2015] UKUT 197 (AAC)</u> CH/3570/2014</p>	<p>23/04/2015</p>	<p>Regulations 100(2) and (3) Housing Benefit Regulations 2006</p>	<p>Whether official error where overpayment arises from recalculation of housing benefit entitlement following a successful appeal against a determination of social security benefits</p>
<p><u>KR v City and County of Swansea (HB) [2015] UKUT 185 (AAC)</u> CH/5286/2014</p>	<p>16/04/2015</p>	<p>Regulations 100(2) and (3) Housing Benefit Regulations 2006</p>	<p>If in an "official error" case the sole basis for the claimant being reasonably expected to realise he or she was being overpaid was the decision notice, axiomatically that expectation cannot arise before he or she has received the notice and read it</p>
<p><u>FT v London Borough of Islington and Secretary of State for Work and Pensions (HB) [2015] UKUT 121 (AAC)</u> CH/3194/2014</p>	<p>06/03/2015</p>	<p>Article 7(3) Directive 2004/38 Regulation 6(2) of the Immigration (European Economic Area) Regulations 2006</p>	<p>Interim decision – whether between the ending of her employment and her claim for jobseeker's allowance the appellant retained worker status – whether she was required to have "registered with the relevant unemployment office" without "undue delay" as per <u>Secretary of State for Work and Pensions v MK (IS) [2013] UKUT 163</u></p>

<p><i>SMcH v Perth and Kinross Council (HB)</i> [2015] UKUT 126 (AAC) CSH/776/2014</p>	<p>13/03/2015</p>	<p>Housing Benefit Regulations 2006 paragraph 4 of Schedule 5 Reg 2(3A)</p>	<p>Whether “payable” means “actually paid under an award whether right or wrong” or “properly or lawfully payable”</p>
<p><i>Walsall MBC v UM (HB)</i> [2015] UKUT 99 (AAC) CH/3021/2014</p>	<p>01/03/2015</p>	<p>Housing Benefit Regulations 2006 Reg 20 (2)</p>	<p>Issues to be considered when a question arises as to who is responsible for a child</p>
<p><i>LM v London Borough of Southwark (HB)</i> [2015] UKUT 86 (AAC) CH/3574/2014</p>	<p>17/02/2015</p>	<p>Rule 24(4)(b) Tribunal Procedure (First-tier Tribunal) (Social Entitlement Chamber) Rules 2008</p>	<p>A local authority’s responsibility to provide copies of all relevant documents in its possession – First-tier Tribunal’s responsibilities if all such documents are not provided</p>
<p><i>MR v North Tyneside Council and Secretary of State for Work and Pensions (HB)</i> [2015] UKUT 34 (AAC) CH/59/2014</p>	<p>22/01/2015</p>	<p>Regulation B13 Housing Benefit Regulations 2006</p>	<p>Bedroom – why regulation B13 (bedroom tax) cannot be interpreted to allow parents with the shared care of a child, who divides their time between them, to retain their full housing benefit</p>

<u>CO v London Borough of Havering (HB)</u> <u>[2015] UKUT 28 (AAC)</u> CH/2544/2014	19/01/2015	Rule 23(6) Tribunal Procedure (First-tier Tribunal) (Social Entitlement Chamber) Rules 2008.	Whether a notice of appeal lodged and signed by claimant's solicitor is "signed by the appellant" for the purposes of Rule 23(6)
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