
LANDLORD AND TENANT

Lease or licence

Edited by Aiva Golden, barrister

R v Hammersmith and Fulham London Borough Council, ex parte O'Sullivan

Queen's Bench Division (Hodgson J)
October 30 1991

Homeless person — Rented accommodation — Landlord living on same premises — Applicant told to leave after becoming pregnant — Council contending that applicant gave up possession unduly — Whether intentionally homeless — Application for judicial review granted

The applicant had lived in rented accommodation and was told to leave by the landlord when she became pregnant. He was said to have stated that he did not want babies on the premises which, the applicant said, were in any event overcrowded. She claimed that she had occupied the premises as a licensee only and did not have the protection of the Rent Acts as the landlord lived in and shared the premises. Moreover, she was unaware that she could remain pending the service of a notice to quit. She applied as a homeless person to the council which, after considering her case, concluded that, in all the circumstances, she had made herself intentionally homeless by unduly giving up possession of premises which she had a right to occupy. Application was made for judicial review of that decision.

Held Application for judicial review granted.

1. The question to be answered was by what right she could occupy the premises. It had not been challenged that the applicant could not claim protection under the Rent Acts; she was outside them by section 12. Her occupation was that of a mere licensee.

2. On the intentional homelessness issue, the court accepted her argument that the letter from the council outlining the factors in her case was not adequate to justify the conclusion that she was intentionally homeless: see also *R v Tower Hamlets*

London Borough Council, ex parte Rouf (1991) 23 HLR 460, CA and *R v Hammersmith and Fulham London Borough Council, ex parte Lusi* (1991) 23 HLR 260 QB.

Terence Gallivan (instructed by Alan Edwards & Co) appeared for the applicant; and John King (instructed by the solicitor to Hammersmith and Fulham London Borough Council) appeared for the respondent council.