



FIRST-TIER TRIBUNAL
SOCIAL ENTITLEMENT CHAMBER

Held at **Liverpool**

on **19/11/2013**

Before Judge D J McMahon

Appellant: Mr [REDACTED] **Tribunal Ref.** SC065/13/02761

NI No [REDACTED]

Respondent: Local Authority

DECISION NOTICE

1. The Housing Benefit appeal is allowed.
2. The decision made on 02/03/2013 is set aside.
3. The appellants and his wife are not ^{would} occupying their home by one bedroom. Accordingly, the Respondent is not required, nor entitled to reduce the appellant's Housing Benefit from his eligible rent from 01/04/2013.
4. The Respondent accepted that the appellant and his wife, a couple, could not share one bedroom due to the ill health of the appellant (and, indeed, the ill health of his wife). The appellant's property comprises of two bedrooms. The Respondent took the view that it had no legislative power to permit an exemption under Regulation B13 of the Housing Benefit (Amendment) Regulations 2012, to take account of disabilities.
5. However, Regulation B13(a) must be read to be compatible with the appellant's rights under Article 14 of the European Convention on Human Rights read in conjunction with Article 1 of the First Protocol of the Convention. The Tribunal is satisfied that Regulation B13(a) must be read as follows, "(a) a couple (within the meaning of Part 7 of the Act) (or one member of a couple who cannot share a bedroom because of severe disability)."
6. Alternatively, the Respondent, in reaching it's decision, was required to take into consideration the appellant's disabilities and his reasonable requirements. The Tribunal concluded that the appellant (and his wife, a joint tenant of the property) reasonably require one bedroom each and should therefore have been assessed for Housing Benefit on that basis.

Neither party had elected to have an oral hearing and the tribunal considered that it was appropriate, in the particular circumstances of this appeal and having regard to its responsibilities in terms of the overriding objective in Rule 2 and Rule 27(1)(b), to consider and decide the appeal without a hearing.

Signed Tribunal Judge:
D J McMahon

Date: 19/11/2013

Decision Notice issued to

Appellant on: 19/11/2013

Respondent on: 19/11/2013