



**FIRST-TIER TRIBUNAL
SOCIAL ENTITLEMENT CHAMBER**

Held at **Edinburgh**


on **06/12/2013**

Before Mr G D Cairns

Appellant: ██████████	Tribunal Ref. SC091/13/05118
	NI No ██████████
Respondent: Local Authority	

DECISION NOTICE

1. The Housing Benefit appeal is allowed.
2. The decision made on 05/03/2013 is set aside.
3. The appellants maximum eligible rent for housing benefit is to be reduced by 14% because she under occupies the property by 1 bedroom and not 2 as previously stated.
4. The appellant required her own bedroom as a result of her husband's specific disabilities.

Signed Tribunal Judge:		Date: 06/12/2013
Mr G D Cairns		
<i>Decision Notice issued to</i>	<i>Appellant on:</i> 06/12/2013	
	<i>Respondent on:</i> 06/12/2013	

Appeal Submission
Tenant Name
To be heard in Edinburgh on 6th December 2013 at
Reference Number: 091/13

Mrs X lives in a 5 bedroomed property with her husband, their dependent son and adult daughter. They have lived in this property since 2007 when they moved in with all four of their children and the property had been recently been built when they took up residency as the first tenants. Mr and Mrs X have lived in the local area for around y years and feel settled there.

For the last 12 years Mr and Mrs X advise that they have had to sleep apart in separate bedrooms. They need separate bedrooms because of Mr X's disabilities. As stated in the letter from Dr Z, Mr X suffers from health problems. Mr and Mrs X advise that these affect him all the time and *details of how health affects Mr X.*

On 1st April 2013 Mr and Mrs X began to be subjected to a reduction in their Housing Benefit following changes to Housing Benefit regulations. Under these new rules it was decided they had 2 bedrooms in excess of their family's needs and their Housing Benefit award (which had previously covered all of their rent) was reduced by 25%. As Mr and Mrs X and their family have need of 4 of the 5 bedrooms it is submitted that this reduction should be 14%.

It is submitted that the decision to reduce Mrs X's housing benefit award by 25% instead of 14% breaches Article 14 of the Human Rights Act as it discriminates against this family on the basis of Mr X's disability and fails to protect their right to respect for family and private life as outlined in Article 8 and is serving to deprive them of their previous peaceful enjoyment of their home which has been restricted without good reason by the current government policy, a breach of Article 1 of the First Protocol of the same act.

The Gorry case in March 2013 accepted that it discriminated against disabled children and their siblings for them to be assessed as being expected to share a bedroom due to disruption during the night. While it is clear that this ruling did not extend to disabled adults in similar situations this cannot be seen to be fair as disability and the symptoms and effects of disability do not usually discriminate dependent upon the age of the person with the disability or those with whom they live.

Since Mrs X's appeal was made there have also been further decisions made which support the view that in particular circumstances it may be appropriate to decide that tenants should be allowed an additional bedroom on the basis of the health needs of a disabled adult and their family. While the circumstances in these cases are not identical to those of Mr and Mrs X they at least indicate that there is some allowance for the Housing Benefit rules to be considered on a case by case basis when deciding the room requirements of families where disability plays a part in the make-up of the household.

These cases are:
SC227/13/03378
SC184/12/00862
SC100/13/11351

Copies of these cases are included with this submission.

I would respectfully request that the tribunal consider the written evidence and the oral evidence of Mr and Mrs X to decide whether it is within the scope of the Housing Benefit regulations to assess them as having a need for Housing Benefit to be reduced by 14% instead of 25% on the basis that they require 4 of the 5 bedrooms available to them for their family to use.

Mairi A. Robinson
Dunedin Canmore Housing Association
28th November 2013