

FIRST-TIER TRIBUNAL

SOCIAL ENTITLEMENT CHAMBER

Held at Newport Isle of Wight

on 22nd May 2014


Before Mr G L Hibberd

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| Appellant: | Tribunal Ref.SC198/14/00033 |
| | NI No |
| Respondent: Isle of Wight Council | |

DECISION NOTICE

1. The Housing Benefit appeal is refused.
2. The decision made on 01/04/2013 is confirmed.
3. This appeal has resolved itself into the single question of whether Miss [redacted] is to be treated as under occupying her home for the purposes of the Housing Benefit Regulations as amended with effect from 01/04/2013. Specifically, the question is whether, apart from the 2 rooms occupied respectively by herself and her 15 year old daughter, a third room should also be deemed a bedroom.
4. I find the following facts:
 - The house was let as a 3 bedroom property.
 - The room in question was for a number of years occupied as a bedroom by her teenage son, who subsequently left home on going to university.
 - It is a room which has at all material times contained either children's bunk beds or one single bed and one other item of furniture, either a wardrobe or a chest of drawers, but not both.
 - It has both natural light and ventilation.
 - Its floor area exceeds 50 square feet but is less than 70 square feet.
5. The appeal rests on the argument that an adult bedroom with floor space of less than 70 square feet would infringe the statutory rules on overcrowding. The amendment to the Housing Benefit Regulations 2008 does not offer a definition of "bedroom" for its own purposes, and in particular makes no reference to floor area. It has not yet generated much in the way of Upper Tribunal decisions on that point. However, Upper Tribunal Judge West in *Bolton Metropolitan Borough Council vs BF* cited with approval Judge Bano's observation in *MG* that the word "bedroom" had a plain and ordinary meaning and that in his view it would be sufficient if the room in question either contained a bed or was used for sleeping in. On that basis I consider myself bound to find that Miss [redacted]'s house has 3 bedrooms and is therefore underoccupied within the terms of the Housing Benefit Regulation.

This decision notice shall constitute a Statement of Reasons if either party request one.

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| Signed:  | Date: 22 nd May 2014 |
| Tribunal Judge: Mr G L Hibberd | |
| Decision Notice issued to | Appellant on: 22/05/2014 Respondent on: 22/05/2014 |