

EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

Committee: Housing Appeals and Review Panel **Date:** Thursday, 9 August 2007

Place: Committee Room 1, Civic Offices, High Street, Epping **Time:** 4.00 - 4.50 pm

Members Present: Mrs P K Rush (Chairman), Mrs R Gadsby (Vice-Chairman), Mrs J Lea, Mrs P Richardson and J Wyatt

Other Councillors:

Apologies: R D'Souza

Officers Present: R Wilson (Assistant Head of Housing Services (Operations)) and G Lunnun (Democratic Services Manager)

59. SUBSTITUTE MEMBERS

It was noted that Councillor Mrs Lea was substituting for Councillor D'Souza at this meeting.

60. DECLARATIONS OF INTEREST

No declarations of interest were made pursuant to the Council's Code of Member Conduct.

61. EXCLUSION OF PUBLIC AND PRESS

RESOLVED:

That, in accordance with Section 100(A)(4) of the Local Government Act 1972, the public and press be excluded from the meeting for the item of business set out below as it would involve the likely disclosure of exempt information as defined in the paragraphs of Part 1 of Schedule 12A of the Act indicated and the exemption is considered to outweigh the potential public interest in disclosing the information.

Agenda Item No	Subject	Exempt Information Paragraph Numbers
5	Appeal No: 6/2007	1 and 2

62. APPEAL NO: 6/2007

The Panel were reminded that consideration of this appeal had been deferred at the meeting held on 26 June 2007 as the appellant although expected to attend had not been present. At that meeting the Panel had decided that arrangements should be made for another meeting to hear the appeal and that the appeal would be determined at that meeting whether or not the appellant was in attendance.

The Democratic Services Manager reported that he had sent two letters and made several telephone calls to the appellant in an attempt to establish whether she would be attending this meeting. On 3 August 2007, she had returned one of the telephone calls and advised that she would be attending this meeting. However, earlier in the day she had telephoned the Council's Housing Services to advise that she would not be present.

In accordance with their previous decision, the Panel proceeded to consider the appeal against the decision made by the Housing Repairs Manager acting under delegated authority to recharge the appellant for damage caused to the front entrance door of her property. Mr P Pledger (Assistant Head of Housing Services (Property and Resources)) attended the meeting to present the Housing Repairs Manager's case. Mr R Wilson (Assistant Head of Housing Services (Operations)) attended the meeting to advise the Panel as required on details of the national and local housing policies relative to the appeal.

The Panel had before them the following documents, which were taken into consideration:

- (a) a summary of the appeal together with the facts of the case forming part of the agenda for the meeting;
- (b) the case of the Housing Repairs Manager;
- (c) copies of documents submitted by the Housing Repairs Manager namely:
 - (i) out-of-hours emergency incident report dated 25 May 2003;
 - (ii) Works Order No: 1234997;
 - (iii) Works Order No: 1240784;
 - (iv) Works Order No: 1242826;
- (v) letter dated 14 August 2003 from the Assistant Repairs Manager to the appellant;
- (vi) letter dated 18 August 2003 from the appellant to the Assistant Repairs Manager;
- (vii) letter dated 2 September 2003 from the Assistant Repairs Manager to the appellant;
- (viii) invoice to the appellant in the sum of £481.41;
- (ix) letter dated 17 November 2003 from the appellant in response to a letter received from the Council's Finance Service;
- (x) letter dated 8 December 2003 from the Council's Solicitor to the appellant;
- (xi) letter dated 3 February 2004 from the Assistant Repairs Manager to Essex Police;
- (xii) letter dated 15 February 2004 from the appellant to the Council's Finance Service;

- (xiii) letter dated 28 June 2004 from Essex Police to the Council's Housing Services;
- (xiv) letter dated 24 November 2005 from the Council's Solicitor to the appellant;
- (xv) letter dated 2 December 2005 from the Council's Solicitor to the appellant;
- (xvi) letter dated 3 November 2006 from the Council's Litigation Lawyer to the appellant;
- (xvii) letter dated 6 November 2006 from the appellant to the Council's Litigation Lawyer;
- (xviii) letter dated 14 November 2006 from the Council's Litigation Lawyer to the appellant;
- (xix) letter dated 27 November 2006 from the Council's Solicitor to the appellant;
- (xx) letter dated 11 December 2006 from the Council's Solicitor to the appellant;
- (xxi) letter dated 14 December 2006 from the appellant to the Council's Solicitor;
- (xxii) letter dated 20 December 2006 from the Council's Solicitor to the appellant;
- (xxiii) letter dated 12 January 2007 from the appellant to the Council's Litigation Lawyer;
- (xxiv) letter dated 23 January 2007 from the Assistant Repairs Manager to the appellant;
- (xxv) letter dated 31 January 2007 from the appellant to the Council's Assistant Head of Housing Services (Property and Resources);
- (xxvi) letter dated 23 February 2007 from the Assistant Head of Housing Services (Property and Resources) to the appellant;
- (d) the appellant's application to the Housing Appeals and Review Panel dated 1 May 2007.

The Panel considered the following submissions in support of the appellant's case:

- (a) the Council was taking advantage due to the appellant's past dependency on alcohol; she was no longer an alcoholic;
- (b) there had been no damage to her front entrance door before the Police had arrived on 24 May 2003; the appellant had left her door with the latch down whilst going to a supermarket as she could not find her keys and the Police had shut the door without her consent; the Police were responsible for the damage to the door;
- (c) there had been no dispute at the appellant's property on 24/25 May 2003; the Council had made assumptions about what had happened;
- (d) the Fire and Rescue Service had caused the damage to the door whilst forcing entry as the appellant's keys had been mislaid and she had been shut out;

(e) the appellant had not lost her keys; the door had been shut without her permission;

(f) the amount being claimed by the Council was excessive; the repair work undertaken did not cost anything like the amount of the invoice;

(g) the appellant did not work and could not afford to pay the full outstanding amount; the appellant had offered to pay £84.35 at a rate of £2.50 per fortnight but was not prepared to pay any more; payments would have commenced in January 2007 had the Council provided a paying-in book as requested; the appellant did not have access to transport and could not therefore get to the Civic Offices to make payments and did not have a bank account;

(h) the Council should claim the difference between £84.35 and £481.41 from the Police or the Fire and Rescue Service.

The Panel considered the following submissions made by the Assistant Head of Housing Services (Property and Resources) on behalf of the Housing Repairs Manager:

(a) the appellant had taken up the tenancy of her current property, a first floor two-bedroom flat, on 31 January 1994; the appellant had remained in occupation since that time although had changed her surname on two occasions;

(b) the appellant had telephoned the Council's out-of-hours emergency service on 25 May 2007 reporting that she had been unable to use her front entrance door after a visit from the Police; the call-out officer had recorded that the tenant had not been able to find keys when the tradesman had arrived; the appellant had stated that she did not want another £400.00 bill from the Council and had asked the tradesman not to carry out any work; as a result he had left the site;

(c) a works order had been raised for the call-out to record the call-out and to recharge the tenant;

(d) on 3 June 2003, the appellant had reported that her front door lock was defective; a works order had been raised to renew the front entrance door lock; on attending, the carpenter had reported that the door and frame were badly split and needed repairing, but he did replace the lock at the request of the appellant;

(e) a further works order had been raised to repair the front entrance door if necessary; when the carpenter had commenced the repairs it had become apparent that whilst the frame was repairable the door was too badly damaged and beyond repair and needed to be renewed; the works order had been varied accordingly;

(f) on 14 August 2003, the Assistant Housing Repairs Manager had written to the appellant informing her that the Council was aware that the Police had been called to her property on 24 May 2003 due to a disturbance, and that following the disturbance the front entrance door had been badly damaged;

(g) contact had been made with the Police and it had been established that they had not caused the damage to the door; the Police had informed the Council that the Fire and Rescue Service had been called to gain access to the property;

(h) the appellant had been advised that in accordance with the terms of her Tenancy Agreement she was responsible for door locks and keys and was also responsible for any damage caused to the property; as a result she would be

recharged for the damage caused by the incident on 24 May 2003; she had been advised that the total cost of the works was £481.41;

(i) on 18 August 2003 the appellant had advised the Council that the Police had closed her front door as she had left the lock on the latch because she had mislaid her keys; she had also claimed that the Police had come to see if she was alright and not as a result of a disturbance;

(j) in further correspondence the appellant had stated that she was in dispute of the Police and the Fire and Rescue Service about the damage which had been caused to her front door;

(k) on 5 July 2004, the Council had received a response from Essex Police listing all incidents at the appellant's property between 1 May 2003 and 1 February 2004; the entry listed for 24 May 2003 had refuted the appellant's claim that the Police had only attended the property to check on her; the Police had stated that they had attended a disturbance and that it had been the appellant who had reported the disturbance;

(l) the appellant had not responded to the Council's request for copies of her correspondence with the Police;

(m) between 24 November 2005 and 20 December 2006, the Council's Legal Services had been in correspondence with the appellant regarding the unpaid amount;

(n) a contract existed between the Council and the appellant in the form of a Tenancy Agreement; the Agreement clearly set out the responsibilities of the tenant; the tenant was responsible for keys to the locks and to repair any damage caused to the fixtures or fittings or to reimburse the Council if work was carried out on a tenant's behalf;

(o) it was clear from the correspondence that on the night of 24 May 2003 there had been a disturbance at the appellant's property and the Police had attended; the Police report had stated that it had been the appellant who had reported the disturbance but had failed to give any details or a location; when the Police had ascertained the location the appellant had already been locked out of her property;

(p) the appellant had requested the assistance of the Council and called the out-of-hours Emergency Officer; the officer had been able to assist as the appellant had not had any keys to her front door;

(q) the appellant was well aware that the Council operated a recharge policy for forcing entry on a tenant's behalf, as she had already incurred a recharge in excess of £400.00 for a previous similar occurrence, and she had informed the Emergency Officer that she did not want to incur another similar bill;

(r) the appellant had subsequently reported that the door locks were defective but this had not been evident at the time the Emergency Officer had called;

(s) the appellant had on previous occasions called out the Fire and Rescue Service to gain entry and had done so again on this occasion and as a result her front entrance door had been damaged;

(t) it was clear that the Council had not been responsible for any of the damage caused to the appellant's property;

(u) between 1996 and 2003 there had been twelve occurrences of damage to the appellant's front entrance door recorded on the Council's file;

(v) the appellant had offered to make payments at a rate of £2.50 per fortnight but no payment had been made at all and if the Panel decided to dismiss the appeal they should not feel bound by this previous offer of payment.

The Assistant Head of Housing Services (Property and Resources) answered the following questions of the Panel:-

(a) The paperwork indicates that the officer responding to the out-of-hours emergency call by the appellant on 25 May 2003 had been a plumber; can you explain why a plumber attended?. The majority of out-of-hours emergency calls received relate to repairs which would normally be undertaken by a plumber; however, these tradesmen tend to be multi-skilled and are quite capable of undertaking emergency repairs of a different nature.

(b) Was the appellant abusive to the officer who had attended her property on 25 May 2003? - Yes.

(c) In view of the appellant's history why is she still a tenant of the Council? - A tenant cannot be evicted for non-payment of a debt; Management Officers have dealt with all of the incidents which have been reported and since 2003 there have been no further reports of damage to the appellant's property.

(d) Is the appellant's rent account up-to-date? I would need to consult the Housing file, I believe the appellant is on Housing Benefit.

(e) You have made reference to a letter from the appellant dated 23 August 2003 in which she stated that her daughter and son-in-law were responsible for the damage to her door; is that letter available? It is on the Housing file.

(f) Why was the appellant not provided with a paying-in book when she offered to start making payments? The Council does not provide a paying-in book for payments of this nature.

(g) Why has the appellant not paid anything towards the outstanding amount although it dates back to 2003? She has prevaricated and is probably of the opinion that the Council will eventually decide not to pursue the matter any further.

The Chairman indicated that the Panel would consider the matter in the absence of the Assistant Head of Housing Services (Property and Resources) and that the appellant and the Assistant Head of Housing Services (Property and Resources) would be advised in writing of the outcome. The Assistant Head of Housing Services (Property and Resources) then left the meeting.

The Panel considered all of the evidence which had been submitted and focused on the evidence about the incident on 24/25 May 2003, the terms of the appellant's Tenancy Agreement and the exchange of correspondence between the appellant and the Council.

RESOLVED:

(1) That, having taken into consideration the information presented by the appellant in writing and by the Assistant Head of Housing Services (Property

and Resources) in writing and orally, the decision of the Housing Repairs Manager that the appellant be recharged for damage caused to the front entrance door of her property be upheld for the following reasons:

(a) the front door of the appellant's property was damaged following an incident at the property on 24/25 May 2003; at the request of the appellant, the Council replaced locks and determined that it was necessary to renew the front door as it had been damaged beyond repair; an invoice for the cost of these works and associated charges amounting to £481.41 was sent to and received by the appellant;

(b) having considered the conflicting evidence submitted, particularly that of the appellant, it is concluded on balance that the Police received a telephone call on 24 May 2003 at 11.30 p.m. about a disturbance; as a result the Police attended the appellant's property and established that she could not get into her property; the appellant's front door was forced open as she had no keys to the property on her and could not otherwise gain access to her property; it would not have been necessary for the door to have been forced open had the appellant not been outside of her property without any keys to gain access;

(c) the appellant has accepted responsibility for two elements totalling £84.35 of the outstanding amount and has suggested that the Council seek the balance from the Police or the Fire Rescue Service;

(d) under the terms of the appellant's Tenancy Agreement, she is responsible for the keys to the property; if these are lost or mislaid, she is responsible for the cost of replacing the keys, locks and any damage caused as a result of gaining access to the property on a tenant's behalf; as a result the appellant is responsible for the whole of the outstanding amount of £481.41;

(e) the amount of the invoice is considered reasonable having regard to the work undertaken by the Council; there is no evidence to support the appellant's claim that the locks of the property were defective prior to the incident on 24/25 May 2003;

(f) the appellant was aware of the Council's policy for recharging tenants for damage caused as a result of forced entry on a tenant's behalf as she had incurred such a recharge in respect of a previous similar occurrence;

(2) That the outstanding amount of £481.41 be repaid over a period of 24 months at a rate of £20.06 per month for the first 23 months and at a rate of £20.03 on the 24th month on a date in each month to be agreed by the appellant and Housing Officers, or if agreement cannot be reached on a date to be determined by Housing Officers; and

(3) That in the event of any monthly payment not being made on the due date, the officers be authorised to take all necessary steps, including legal proceedings, to recover the full remaining outstanding amount.

CHAIRMAN