

Unlawful eviction; damages

Hadden v. Nicholson 15th August 2006 (Carlisle County Court)

Mr Hadden held an assured shorthold tenancy of a bed-sit room at 155 Warwick Road, and had done since the 7th December 2003. On the 1st April 2005 155 Warwick Road was acquired by Mr Nicholson, and he granted a new assured shorthold tenancy to Mr Hadden.

In September and October 2005 Mr Nicholson wrote to Mr Hadden informing him that urgent repairs were required to the electrical system; that Mr Hadden would have to leave the property as soon as possible; that the electricity supply would be switched off on the 10th October 2005; and that Mr Hadden would be able to return once the repairs were carried out. No evidence was presented at court that there ever was a problem with the electricity supply, or that any repairs had been carried out on it. Mr Hadden agreed to temporarily move out of 155 Warwick Road and into alternative accommodation provided by Mr Nicholson.

On the 10th October 2005 Mr Hadden loaded his belongings into a van and attempted to move into the temporary alternative accommodation. When he arrived at the alternative accommodation Mr Nicholson's agent refused to allow him admission unless he paid a week's rent (£40) in advance, which he was unable to do. He returned to his original property but was unable to gain entrance as the lock there had been changed.

The judge found that Mr Hadden was unlawfully evicted. When Mr Hadden moved out of 155 Warwick Road on the 10th October 2005 he had no intention of surrendering his tenancy, he was merely responding as best he could to Mr Nicholson's threat to switch off the electricity. The judge was of the opinion that in itself was enough to make out a claim for unlawful eviction, but said that the matter was made worse by Mr Nicholson's refusal to allow Mr Hadden to enter the alternative accommodation

Mr Hadden was unable to find any alternative accommodation on the 10th October 2005, so spent the night on the streets. He suffered the indignity of being moved on by security guards and the police. On the 11th October 2005 Mr Hadden was admitted to a homeless shelter, and stayed there for a total of four nights. Mr Hadden's belongings remained in a van for the five days. On the 14th October 2005 an injunction ordering Mr Hadden's re-admittance to 155 Warwick Road, or to suitable alternative property, was served on Mr Nicholson. Mr Nicholson admitted Mr Hadden into an alternative property; the court accepted that it was suitable.

The judge awarded Mr Hadden £1,000 in general damages for the night on the streets and the four nights in the shelter. Mr Hadden was awarded £350 in aggravated damages as he had never spent a night on the streets before, was moved on by the police, and had never stayed in a hostel before. Mr Hadden was awarded £1,000 in exemplary damages chiefly as Mr Nicholson had made a profit by evicting him from 155 Warwick Road.

(Mr Hadden was represented by Andrew Byles of GCN chambers.)

Homelessness; priority need

Robinson v Hammersmith & Fulham LBC [2006] EWCA Civ 1122

The Appellant approached the authority for assistance as a homeless person on 17 February 2005. She was aged 17 but due to turn 18 on 11 March. It was accepted by the interviewing housing officer that she would be in priority need due to her age, but the Appellant was told that as it would take the authority 28 days to investigate her case (by which time she would have turned 18) her application would be turned down. [judgment](#)

The Appellant took advice and approached the authority again. It agreed to place her in interim accommodation and set up mediation between the Appellant and her mother (as the reason for the Appellant's homelessness was that she had been asked to leave her mother's house), but her mother refused to enter any form of mediation.

On the day before the appellant's 18th birthday the authority decided that the appellant had no priority need and informed her of that decision by telephone. A letter was then sent the following day. The decision was upheld on review.

On appeal it was held by the county court judge that the only reason for any delay on their part was that it was trying to resolve matters by way of mediation, and that *Mohammed v Hammersmith & Fulham LBC [2002] 1 A.C. 547; [2002] H.L.R. 7, HL* required the review panel to apply the law to the facts as they stood on the date of that review – by which time of course the Appellant was over 18.

The Court of Appeal reversed the decision on the basis that the s.184 decision was unlawful simply because the appellant had been under 18 at the time it was made (March 10). *Mohammed* was distinguished on the basis that here the effect of the original decision was to deprive the Appellant of substantive rights she would have enjoyed had the decision been made properly in the first place.

Legal Training

The North West Housing Law Practitioners Group (NWHLPG) is running the following courses this autumn:

- 29/9/06 **Housing Law Update 2006** (full day event)
Presented by John Gallagher (solicitor, Shelter), His Honour Judge Holman and Ben Taylor (solicitor, Glaisyers)
- 10/10/06 **RSLs and Housing Law** (evening)
Presented by Ben McCormack and Adam Fullwood (Garden Court North)
- 7/11/06 **Relationship Breakdown, Civil Partnerships and Housing Matters** (evening)
Presented by James Stark (Garden Court North)

The above courses should be booked directly with the NWHLPG, ask [Helen Ray](#) for contact details.