

ROYAL COURT

3rd August, 1992

135.

Before: The Bailiff, and
Jurats Bonn and Le Ruez

The Attorney General

- v -

Stuart Dawson Le Boutillier,
Grant Breen,
Lesley Duffy.

1 charge of contravening Article 7(1) of the
Housing Law, 1949.

AGE:

- (1) Le Boutillier: 54.
- (2) Breen: 26.
- (3) Duffy: 23½.

PLEA:

Facts admitted.

DETAILS OF OFFENCE:

Defendant (1) owned house let to qualified tenants who took defendants (2) and (3) in as lodgers. Tenants left. To enable defendants (2) and (3) to remain, part only of property let to new qualified tenant. Defendants (2) and (3) not lodgers of new tenant, thus illicit tenancy created between defendant (1) and defendants (2) and (3).

DETAILS OF MITIGATION:

Initial arrangement lawful. Mistaken belief that it was possible to perpetuate it by installing a qualified occupant in part of the property. No illicit profit. Defendant (1) only wanted to help defendants (2) and (3). Co-operation. Good character.

PREVIOUS CONVICTIONS:

None.

CONCLUSIONS:

Defendant (1): £750 or 3 weeks and £200 costs.

Defendants (2) and (3): £1,000 or 1 month and £200 costs (jointly and severally).

SENTENCE AND OBSERVATIONS OF THE COURT:

Le Boutillier: £100 or 7 days £25 costs. Breen: £50 or 4 days. Duffy: £50 or 4 days £25 costs jointly and severally.

Miss S.C. Nicolle, Crown Advocate.

Advocate R.A. Falle for Le Boutillier.

Advocate Miss S.E. Fitz for Breen and Duffy.

JUDGMENT

THE BAILIFF: There are one or two matters in this case which give us cause for concern. The first is (and it is freely admitted by the prosecution) that no one has been deprived of accommodation who would otherwise qualify to occupy it.

Secondly, there has been, we think, a considerable delay, the reasons for which we do not know, but certainly there was delay from the time the infraction was first discovered and the date on which the Housing Committee acted and sent the papers to the Attorney General.

We have also not been told whether the Housing Committee was aware, when it made its decision, that the circumstances giving rise to the infraction had been put right in October when the new

tenant took over and matters reverted to the position they had been in when Mr. and Mrs. Benest were the tenants.

However, we think, as Miss Nicolle has said, that this prosecution arises from the misconception people have had in the past that so long as there is one qualified person in the house, that suffices. On the other hand, we are impressed by the fact that all the defendants in this action tried their best to ensure that there was no breach of the Housing Law. Certainly, that is something which the Jurats, who decided the sentence (with which I concurred) have taken into account.

The last matter we wish to mention is this: this infraction is, in the view of the Court, a technical infraction and accordingly does not fall to be dealt with by the same type of sanction which we have been accustomed to impose where there have been deliberate breaches of the Law. We note in the case of AG -v- Hyde and Munn (5th July, 1991) Jersey Unreported, that a fine of £500 was imposed where there had been a deliberate misleading of the Committee, but none of those factors apply in this case.

Under the circumstances we have come to the conclusion that as regards Mr. Le Boutillier, he will be fined £100 or 7 days and £25 costs. As regards the other two defendants, they will each be fined £50 or in default 4 days each, and they will pay £25 costs jointly and severally.

Authorities

AG -v- Hyde and Munn (5th July, 1991) Jersey Unreported.