

ROYAL COURT
(Samedi Division)

205

27th November, 1992

Before: The Bailiff, and
Jurats Myles and Hamon

The Attorney General

- v -

John Joseph Twohig

One Infraction of Article 14(1)(a) of the Housing (Jersey) Law, 1949.

AGE: 50

PLEA: Guilty.

DETAILS OF OFFENCE:

House with condition requiring occupation by those qualified under Regulations 1(1)(a) to (h) of the Housing Regulations. For five years between 1986 and 1991 property occupied by accused's son who did not pay rent but one Robert Campbell, unqualified for Housing purposes, shared the house and did pay rent direct to the accused. Son quit the property in March, 1991, and from March until July, 1991, Campbell remained in the property illegally in breach of the condition paying rent to accused. Rent £216 per month. When first contacted accused claimed property was empty, but on interview was entirely forthcoming.

DETAILS OF MITIGATION:

Accused under misconception that if one person qualified then no offence would take place, and advertisement for qualified person had been made. Accused had been Centenier for four and a half years. Had co-operated and pleaded guilty. Had put the matter right on discovering the problem, and no illicit profit as bungalow relet at same rent. Short period over which offence was committed. Fifteen months' delay in bringing prosecution to Court. Great strain on accused who had not stood for re-election as Centenier as a result.

PREVIOUS CONVICTIONS: None.

CONCLUSIONS: £1,250 fine plus £250 costs.

SENTENCE AND OBSERVATIONS OF THE COURT:

£850 fine plus £150 costs. Difficult to sentence first offender with good record of public service. Housing Law must be enforced. Court took into account the time between which the infraction came to light and the date of prosecution and good character of accused.

W.J. Bailhache, Esq., Crown Advocate.
Advocate R.J. Renouf for the accused.

JUDGMENT

THE BAILIFF: It is always a difficult task for a Court to sentence someone who is a first offender and with a particularly good record of public service and helping the Community. Nevertheless the Housing Law has to be enforced and it is the duty of this Court to impose proper sanctions when there has been an infraction.

In this particular case, however, we have been able to take into account, first, the time over which the infraction was committed: the Crown has conceded that was fourteen weeks; secondly, the good character of yourself until this prosecution; thirdly, the combined delay was quite considerable and obviously imposed a strain upon you and your family, however, we do not attribute any particular part of that delay to any section, either in the Housing Department nor in the Law Officers' Department.

Under all the circumstances, we are able to make some reduction in the conclusions asked for. We have to take into account the delays and their effect on the accused, and we are satisfied that these delays did have some effect. This is not a very important matter, but it is nevertheless a matter to take into account. We also have to take into account the party's circumstances and indeed the length of time over which the breach was committed.

Having said that, the cases put to us are not of much help because each case depends very much on its facts. In the instant case we are satisfied, Mr. Renouf, that your client is of impeccable character; that it was a family transaction; and that they are, as you have said, shattered by their appearance this morning.

Under all the circumstances we have come to the conclusion that the appropriate fine (and there must be a fine) is one of £850 or in default one month's imprisonment and £150 costs.

Authorities

A.G. -v- Gala Holidays (2nd November, 1990) Jersey Unreported.

A.G. -v- Mills (26th April, 1991) Jersey Unreported.

A.G. -v- Le Boutillier and Ors. (3rd August, 1992) Jersey
Unreported.