

ROYAL COURT  
(Samedi Division)

136.

25th July, 1996

Before: F.C. Hamon, Esq., The Deputy Bailiff,  
and Jurats Gruchy and Jones

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The Attorney General

- v -

St. Aubin's Wine Bar, Limited

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1 count of        contravening Article 2(1) of the Lodging Houses (Registration) (Jersey) Law, 1962, as amended,  
by keeping a lodging house which was not registered under the Law.

Plea: Facts denied.

Details of Offence:

Company applied for re-registration. Committee declined to re-register on grounds (i) no physical separation of lodging accommodation from licensed premises, therefore inadequate sanitary provisions for exclusive use of lodgers; (ii) no cooking facilities in rooms as required by Code of Practice. Company continued to take lodgers. When Investigated, there were 23 lodgers each paying £50 per week. Charge covered four days.

Details of Mitigation:

Company had over a period of years transformed lodging house from sub-standard condition to very acceptable standard (apart from (i) and (ii) above). Company maintained that Committee should have registered it.

Previous Convictions:

Two previous convictions under the Licensing (Jersey) Law, 1974. One parking offence. One previous conviction (1995) under Article 2(1) of the Lodging Houses (Registration) (Jersey) Law, 1962.

Conclusions: £5,000 fine and £1,000 costs.

Sentence of the Court: Conclusions granted.

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The Solicitor General.  
Mr. James Barker, a representative of the  
Defendant Company.

JUDGMENT  
(announcing the Court's decision).

THE DEPUTY BAILIFF: This is a prosecution against St. Aubin's Wine Bar Limited, which is represented by Mr. James Barker, in that between 20th April, 1996, and 24th April, 1996, at the premises known as 55, The Esplanade in the Parish of St. Helier, the Company contravened Article 2(1) of the Lodging Houses (Registration) (Jersey) Law, 1962, as amended, by keeping a lodging house which was not registered under the Law, thus rendering itself liable to the penalties set out in Article 2, sub-section (2), of the Law.

The provisions of the Lodging Houses Law define a lodging house as "*any premises on which is conducted the business of providing lodging with or without board, for reward....*" There are certain exceptions to the definition of a lodging house: a lodging house is not premises in which lodging for reward at any one time is provided for five persons or less.

The facts of the case - despite the number of witnesses we have heard today - are remarkably clear. At an inspection held at the premises on 23rd February, 1996, it was noted that a partition on the ground floor, which separated the lodging accommodation from the licensing area, had been removed. That, apparently, was important because the partition was a means of preventing those who were using the public bars in the premises from using the toilet: toilet accommodation must be suitable for the number of lodgers registered at the property and we understand that there were some 20 lodgers in these premises. It was also noted that there were no cooking facilities in any of the registered rooms.

On 15th March, 1996, the Committee, having taken advice, decided that it could not re-register the lodging house on those two grounds: that the facilities in the toilets were not exclusively for the lodgers and that there were no cooking facilities in the rooms.

The Committee appears to have acted perfectly properly; Mr. Barker was written to; he appealed in person to the Committee requesting that it rescind its decision not to re-register the lodging house. The Committee declined to follow Mr. Barker's submissions. Mr. Barker wrote to the Committee on 11th April and the premises were revisited by the senior Law and Loans Officer. A report was relayed to the Committee at its meeting of 12th April and again the Committee refused to accede to Mr. Barker's request.

In a letter dated 2nd April, after Mr. Barker had made a personal appeal to the full Housing Committee, he was informed

that he was no longer registered and the position in law was set out for him: if he continued operating as a lodging house after 19th April, 1996, he would be in breach of the Lodging Houses (Registration) (Jersey) Law, 1962, should he still be accommodating more than five persons for reward on the premises. That was confirmed in a letter dated 12th April.

In the early hours near to 7 o'clock on 24th April, the premises were visited by two officers of the Department accompanied by four police officers and they took statements from those people who were in the premises at the time.

The issues are very simple, as Miss Nicolle has pointed out: the Committee has only to prove to us that the Company was running an unregistered lodging house and that there were more than five people in the premises at the time. The premises were not registered, there were more than five people in at the time (we heard many of them this morning) and therefore, Mr. Barker, in our judgment, is clearly in breach of the Law and is therefore liable to whatever sanctions we might impose upon him.

*[The Court, in accordance with the Solicitor General's conclusions, imposed a fine of £5,000, with £1,000 costs].*

Authorities

Lodging Houses (Registration) (Jersey) Law, 1962, as amended,  
Article 2(1).