
DECISION

1. The landlord has brought proceedings in the county court for alleged arrears of charges due under a lease of basement premises to the tenant, Mr McCullough. The tenant disputes the claim and seeks to counterclaim in respect of damage to the premises. The claim was transferred to the Tribunal of the county court's own motion and a case management conference was held by the Tribunal on 16 January 2014 at which the landlord's counsel asked that the matter be referred back to the county court because the premises let were not a dwelling and the Tribunal did not have jurisdiction to determine the dispute. Because the tenant had not had an opportunity to consider the point the question of jurisdiction was adjourned to 26 February 2014.

2. On 26 February 2014 Ms Cullen, counsel, appeared for the landlord and the tenant appeared in person and gave evidence. He agreed that the premises which were the subject of his lease were used only for storage, had no windows other than pavement lights and did not have washing or kitchen facilities or access to such facilities and that only on very rare occasions had he slept there.

3. We are satisfied that the Tribunal does not have jurisdiction in respect of this claim and that it should be referred back to the county court. Section 18 of the Landlord and Tenant Act 1985 defines a service charge, over which the Tribunal has jurisdiction, as a charge payable by a tenant of a *dwelling*. It is clear that the premises let to the tenant are not and never have been a dwelling and that the Tribunal does not have jurisdiction to deal with this dispute, which is accordingly referred back to the county court.

Judge: Margaret Wilson