

ROYAL COURT
(Samedi Division)

21.
26th January, 1996

Before: The Deputy Bailiff and Jurats
Gruchy and Orchard

The Attorney General

-v-

Hazel Jean Altham (née Collas)

1 infraction of: the Housing (Jersey) Law, 1949, Article 7(1) (count 1); and
1 infraction of: Article 14 (1)(a) of the said Law (count 2).

PLEA: Facts Admitted

AGE: 51

DETAILS OF OFFENCE(S):

Article 7(1): let premises to a 1(1)(j) applicant before receiving the consent of the Committee. In the event the Committee's consent was not forthcoming.

Article 14(a): left lodgers in the premises and continued to receive their rents through the simple intermediary of the new "tenant".

DETAILS OF MITIGATION:

Offences discovered after only 3 weeks; matters immediately put right; had effectively left the management of the premises to a friend; delay in case being completed by Housing Department; good character; admission of infraction.

PREVIOUS CONVICTIONS:

Parking (disregarded for present purposes).

CONCLUSIONS:

Count 1: £100 fine or 1 week's imprisonment in default of payment.

Count 2: £500 fine or 2 weeks' imprisonment in default of payment.

SENTENCE & OBSERVATIONS OF THE COURT:

Count 1: conclusions granted.

Count 2: £300 fine or 2 weeks' imprisonment in default of payment.

Housing had explained the delay (difficulty of tracing witnesses) but the fact of the delay had caused stress. Court prepared to take account of that feature, thus slightly reduced sentence.

C.E. Whelan, Esq., Crown Advocate
Advocate R.G.S. Fielding for the accused

JUDGMENT

THE DEPUTY BAILIFF: These offences arise because of the breach of a very common condition in a housing consent. When Mrs. Altham purchased "Valrosa" in 1989 the property was stipulated as being for occupancy by persons falling into the 11 A - J category. There were four bedrooms in the house and Mrs. Altham, as she was entitled to do, used one bedroom and accommodated lodgers in the remaining three.

On 7th February, 1995, Mrs. Altham applied for a Mr. Patrick O'Neal, a J category person, to rent the house described as "unfurnished and detached". Housing consent was refused after a delay on the grounds that the transaction was not in the best interests of the community as the size of the accommodation exceeded Mr. O'Neal's needs.

Mr. O'Neal had in fact entered into the lease. He moved in with his girlfriend on 5th February, 1995, and a deposit and two weeks rent had been paid. He had lived as a tenant in the property for three weeks. That situation was, it must be said, immediately rectified when the decision of the Housing Committee was known.

The situation was worse than it appeared on the face of it. It became clear that Mr. O'Neal had been put in the property in order to "front" the continued payment of the lodgers. There was a grave discrepancy between the "Jersey Evening Post" advertisement, seeking a tenant for a one bedroomed flat at £65 per week and the application to Housing for the lease of an entire house at £230 per week. The explanations given at the time were not entirely satisfactory. And that again, on the face of it, is not surprising because there have been many identical cases of this discrepancy in the past. It has been pointed out by Mr.

Fielding that Mrs. Altham did not put the advertisement in the paper and was not responsible for it.

5 We have considered that Mrs. Altham is of good character. She has lived with a Mr. Booth for many years. She obviously relied upon him to a certain extent. There was also a considerable delay in bringing this prosecution. Now, while the delay is explicable it undoubtedly caused stress and whilst the original misfeasance, of course, was not of the Housing
10 Committee's making, it does seem to us that to hold someone in suspense for such a very long period before telling them that they are to be prosecuted is unsatisfactory.

15 The fines have clearly taken into account the mitigation that was available and we really have not much to argue with them, however, in the light of the delay and because of the mitigating factors, we are prepared to reduce one of the fines. Therefore, Mrs. Altham, you are fined £100, or one week's imprisonment in default, on the first count; £300, or two weeks' imprisonment in
20 default on the second count. The costs of £200 must stand.

Authorities

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