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~~NOT TO BE TAKEN AWAY~~

J A M A I C A

Landlord  
+  
Tenant

IN THE COURT OF APPEAL

MISCELLANEOUS APPEAL No. 12/79

BEFORE: The Hon. Mr. Justice Leacroft Robinson - President  
The Hon. Mr. Justice Carberry, J.A.  
The Hon. Mr. Justice Carey, J.A. (Ag.)

BETWEEN - ORINEMIA LOUISE BROWN - APPELLANT  
AND - HAZEL BROWN - RESPONDENT

Mr. A.F. Rae for the Appellant.

13th January, 1981

ROBINSON, P.:

The sole point raised in this appeal is the contention that the Rent Board has no power, no jurisdiction or right to call any witnesses at all. Consequently, the Board erred in calling as a witness of the Board the Valuation Officer in this case, and in taking into consideration the evidence which that officer gave. In our opinion there is no merit in the contention.

The Rent Restriction Act expressly provides by Section 11, sub-section 10 that -

"When an application has been made to a Board under this Act, the Board may make an order on such application notwithstanding the non-attendance of the applicant or any person interested before the Board. "

It would seem to us that if the Board is to have the power to make an order, notwithstanding the non-attendance of any interested party before the Board, it must follow that the Board must have the power to call such evidence as it may wish to enable it to make that order.

The practice used to be for the Board to employ the services of some private valuator to come and give that evidence to enable the Board to determine the standard rent. In 1976, the Act was amended to provide for an officer called a Valuation Officer who became an employee and an officer of the Board. Section 14 of the Act provides that such an officer -

"(a) at any reasonable time may enter any controlled premises and carry out such investigations in relation to the value of those premises as he thinks necessary for the purpose of giving evidence before a Board;" and

"(b) shall give, before a Board, evidence in relation to the value of any controlled premises in respect of which the Board wishes to determine the standard rent."

It would seem to us, therefore, to be quite clear that if the Board has power to determine the standard rent, whether or not parties appear, it must have the power to hear relevant evidence, and the Valuation Officer has the power to give such evidence before the Board.

Attention was directed to Rule 11 of the Rent Restriction Rules, 1944 which provides as follows:

"Subject to the provisions of this Law and these Rules the practice and the procedure in an Action in the Resident Magistrate's Court shall with the necessary modifications apply to proceedings under the Rent Restriction Law, 1944. "

Suffice it to say, that that Rule begins by expressly stating that it is subject to the provisions of this Law. This Law includes the section to which I have already referred, and while it talks about the practice and procedure, it goes on to say, "with the necessary modifications."

It follows that because of the power of the Board as given in the Act, ..... the "necessary modifications" must envisage and involve the right for the Board to make use of the services of the statutory officer, namely, the Valuation Officer, provided for by Section 9 (8) of the Act, and whose functions are as set out in Section 14.

It is interesting to observe that sub-section 5 of Section 11 of the Act gives the Chairman of the Rent Board "the powers of a Resident Magistrate, to compel the attendance and examination of witnesses and the production of documents." Those powers are not confined to the powers of a Resident Magistrate in a civil action but refer to his powers generally and a Resident Magistrate has the power in criminal cases to summon and examine witnesses as witnesses of the Court. Similarly, the Chairman of the Rent Board is given the power to summon and examine anybody that the Board wishes to call as a witness of the Board and, as already indicated Section 14 requires the Valuation Officer to give before the Board evidence which may assist the Board in determining the standard rent.

For all the above reasons, this appeal is dismissed. There shall be no order as to costs.