20 May 2015

PRESS SUMMARY

Haile (Appellant) v London Borough of Waltham Forest (Respondent)
[2015] UKSC 34
On appeal from [2014] EWCA Civ 792

JUSTICES: Lord Neuberger (President), Lady Hale (Deputy President), Lord Clarke, Lord Reed and Lord Carnwath

BACKGROUND TO THE APPEALS

The question in this case is whether the respondent local authority were entitled to be satisfied that the appellant, Ms Haile, became homeless intentionally. If the authority were not satisfied that she "became homeless intentionally" (section 193(1) of the Housing Act 1996), then they were under a duty to secure that accommodation was available for her occupation (section 193(2)). By section 191(1) of the 1996 Act: "a person becomes homeless intentionally if he deliberately does or fails to do anything in consequence of which he ceases to occupy accommodation which is available for his occupation and which it would have been reasonable for him to continue to occupy."

The appellant surrendered her tenancy of a bedsit in a hostel on 25 October 2011. She moved to temporary accommodation, which ended in November 2011 when she was asked to leave because of overcrowding. She then applied to the respondent authority for accommodation as a homeless person. On 15 February 2012 she had a baby daughter. Had she still been living in the hostel, she would have had to leave, as only single persons were allowed to reside there.

On 1 August 2012 the authority decided that the appellant was homeless, eligible for assistance, and had a priority need, but that she became homeless intentionally. On 31 January 2013, a decision to the same effect was made by a review officer. The basis of the finding was that she had surrendered her tenancy of the room in the hostel and in consequence had ceased to occupy accommodation which was available for her occupation, and which it would have been reasonable for her to continue to occupy until she gave birth. Her contention that she would have had to leave the hostel in any event when she gave birth was regarded as irrelevant. Her appeal was dismissed by the County Court and the Court of Appeal. Before the Supreme Court, she argued that the birth of her baby broke the chain of causation between her intentionally leaving the hostel, and her state of homelessness when her application was considered. The appeal invited the court, if necessary, to depart from the House of Lords' decision in *Din v Wandsworth London Borough Council* [1983] 1 AC 657.

JUDGMENT

The Supreme Court allows the appeal by a majority of 4-1 (Lord Carnwath dissenting). Lord Reed gives the lead judgment, with which Lord Neuberger, Lady Hale, and Lord Clarke agree. Lord Neuberger adds a concurring judgment.

REASONS FOR THE JUDGMENT

Lord Reed reasons that the requirement in section 193(1) is meant to prevent "queue jumping" by persons who, by intentionally rendering themselves homeless, would obtain a priority in the provision of housing to which they would not otherwise be entitled. It is in relation to the current state of being homeless that one asks, did the applicant become homeless intentionally? **[22-24]** Section 193(1) must therefore be understood as being concerned with whether the applicant's current homelessness was caused by intentional conduct on his part. This depends, first, on whether he deliberately did or failed to do anything in consequence of which he ceased to occupy accommodation meeting the requirements of section 191(1). If yes, the further question arises under section 193(1) whether the appellant's current homelessness was caused by that intentional conduct. **[25, 28]** Thus, section 193(1) is read as meaning the local authority "are not satisfied that [the applicant is homeless because] he became homeless intentionally." **[27]**

Din concerned the interpretation of the definition of "becoming homeless intentionally" in section 17(1) of the Housing (Homeless Persons) Act 1977. The decision that the elements of that definition were to be considered as at the time when the applicant ceased to occupy accommodation meeting the requirements of the definition is still correct. It also remains true that if the definition is satisfied at that point in time, subsequent hypothetical events are immaterial. Finally, the conclusion in *Din* that there must be a continuing causal connection between the deliberate act satisfying the definition of "intentional" homelessness, and the homelessness existing at the date of the local authority's inquiry, remains good law. **[38, 40, 59-60]** Later authorities applied that principle and provide examples of events interrupting the causal connection, such as marital breakdown. **[44, 62]** In the present case, the review officer did not consider whether the cause of Ms Haile's current state of homelessness was her surrender of her tenancy of the room in the hostel. The birth of the baby meant that she would be homeless, at the time her case was considered, whether or not she had surrendered the tenancy. She had not jumped the queue as a result of surrendering the tenancy. **[66-67]**

Lord Neuberger agrees with Lord Reed's analysis, **[69]** and adds some reasons of his own.

Lord Carnwath, in his dissenting judgment, would have dismissed the appeal. In his view the reasoning of the review officer was an orthodox reflection of the majority approach in *Din*. **[89]**

References in square brackets are to paragraphs in the judgment