

Loveridge v Lambeth LBC
[2014] UKSC 65, December 03, 2014
Lords Neuberger, Wilson, Sumption, Carnwath, Toulson

The Supreme Court has held that, when assessing statutory damages for unlawful eviction of a secure tenant by a local authority under s.28, Housing Act 1988, the valuation exercise must proceed on the basis that the tenancy is – and remains – a secure, rather than an assured tenancy. The Court noted that this led to damages far in excess of any actual loss and suggested that Parliament revisit the matter.

Andrew Arden QC led for the authority

A landlord commits a statutory tort if he unlawfully deprives a residential occupier of premises of his occupation of the whole or part of the premises (s.27, Housing Act 1988). Damages are assessed as the difference between the value of the landlord's interest with the occupier still enjoying the right to occupy, and the value of the landlord's interest without such a right; the calculations are both undertaken on the assumption, inter alia, of an open market sale to a willing purchaser (s.28). The provisions were introduced to discourage landlords from unlawfully evicting Rent Act 1977 tenants so as to take advantage of the higher rents chargeable to assured tenants under the Housing Act 1988 (Housing: The Government's Proposals, White Paper, CM 214/1987).

If a local authority landlord sells or transfers the reversion on a secure tenancy to a private landlord, the tenancy will become an assured tenancy (ss.13, 38, 1988 Act).

Mr Loveridge was the secure tenant of Lambeth in a one-bedroom flat, which itself was one of two flats in the building. It was a term of his tenancy agreement that he would notify Lambeth if he was absent from the property for more than eight weeks. In July 2009, he left the property for a lengthy visit to Ghana and did not return until December 2009. He did not inform Lambeth of his absence. In September 2009, Lambeth became concerned that he might have died in the property and forced entry. The authority cleared out his possessions and re-let the flat.

Mr Loveridge brought proceedings for unlawful eviction and wrongful disposal of his possessions. The parties agreed that the possessions were valued at £9,000 and that common-law damages for the eviction were £7,400.

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Mr Loveridge argued that, rather than common law damages, he was entitled to statutory damages under s.28, 1988 Act, in the sum of £90,500. Lambeth contended that his statutory damages were nil, and that he was only entitled to the agreed common law damages. Mr Loveridge's valuer assumed that the notional purchaser should be deemed to take the building subject to an on-going secure tenancy. The valuation evidence for Lambeth proceeded on the basis that the notional open market sale would result in the occupier becoming an assured tenant, and that would have no impact on the price that private purchaser would pay. The trial judge found for Mr Loveridge but Lambeth successfully appealed to the Court of Appeal ([2013] EWCA Civ 494; [2013] 1 W.L.R. 3390; [2013] H.L.R. 31).

Mr Loveridge successfully appealed to the Supreme Court. The court was required to value the landlord's interest with the tenant in occupation under the same rights he enjoyed prior to his eviction. The notional sale had to be assumed to be on the basis that the landlord was selling his interest to a willing buyer who was an ordinary private landlord, rather than another local authority or housing association. Although, in law, the effect of such a sale was to convert the secure tenancy into an assured tenancy, the valuation exercise required an assumption that Mr Loveridge remained a secure tenant. It followed that the valuation evidence from Mr Loveridge's valuer was to be adopted. The Supreme Court restored the trial judge's award of damages. It noted, however, that the effect of this was to award Mr Loveridge damages far in excess of his actual loss in circumstances where Lambeth had not made, nor sought to make, any gain and suggested that Parliament should revisit the application of ss.27, 28 to local authorities.

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