ASB injunctions and possession claims — In depth — when and how to use them

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Hello

Link to serious offences; Housing Act 1985 (legislation.gov.uk)

Heres a good article on Roseberry v Williams case; Judge criticises housing association over anti-social behaviour injunction bid, awards £27,500 damages for anti-discrimination counterclaim (localgovernmentlawyer.co.uk)

More info;

What Happens if the Defendant Refuses to Co-operate with a Capacity Assessment?

- The Mental Capacity Act Code of Practice at paragraph 4.59 states that a person cannot be compelled to undertake a capacity assessment.
- The local authority should try and determine why there is a lack of co-operation.
- If it is because the assessors attend at the wrong time (the tenant is high, in the grip of a hallucination, sleepy) or there is a lack of trust or similar then the local authority will need to try again and again.
- If it appears the tenant is not co-operating then the local authority should explain to the tenant refusing an assessment why it is needed and what the consequences of refusal are.
- The tenant runs the risk of not accessing the help they may need to save the home.
- If the tenant continues to refuse to co-operate then the local authority should obtain a capacity assessment on the papers without an interview

Capacity and deliberate acts of ASB

Section 191(1) of the Housing Act 1996 provides,

"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".

Paragraph 11.7 of the Homelessness Code of Guidance for Local Authorities 2006 provides: Generally, an act or omission should not be considered deliberate where: ...*(ii) the housing authority has reason to believe the applicant is incapable of managing his or her affairs, for example, by reason of age, mental illness or disability; (iii) the act or omission was the result of limited mental capacity; or a temporary aberration or aberrations caused by mental illness, frailty, or an assessed substance abuse problem".*

Thanks again all

Aisha

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