

ROYAL COURT

21st June, 1991

81.

Before: The Bailiff, and  
Jurats Coutanche and Orchard

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The Attorney General

- v -

Paul Alexander Warwick Hamilton

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Two infractions of Article 6(1)(a) of Dwelling Houses (Rent Control) (Jersey) Law, 1946.

**PLEA:** Guilty.

**DETAILS OF OFFENCE:** Tribunal reduced the rent. Defendant continued to charge the old rent. New tenant took over. Defendant continued to charge the old rent. In all profited by some £300 before the offences came to light.

**DETAILS OF MITIGATION:** completely co-operative. Repaid the illegal surplus as soon as the offences came to light. Defendant claimed that he and original tenant had agreed not to be bound by the Tribunal and had gone there only because the tenant needed the rent "officially" reduced to profit from rent rebate scheme. Defendant overcharged the second tenant because he thought that the Tribunal's finding was exclusive to the first tenancy.

**PREVIOUS CONVICTIONS:** Nil.

**CONCLUSIONS:** Count 1: £300 fine or two weeks' imprisonment in default.  
Count 2: £400 fine or three weeks' imprisonment in default.

**SENTENCE AND OBSERVATIONS OF THE COURT:** Defendant's explanations rejected. The law was there for a purpose. Any deliberate breach of the statute is to be regarded as

serious. The conclusions were on the moderate side.  
Conclusions granted.

**NOTE:** This was the first prosecution under the statute since the maximum fine was lifted from £100 to £2,000. The increase is an indication of the view of the legislature.

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C.E. Whelan, Esq., Crown Advocate.  
Advocate C.J. Dorey for the accused.

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**JUDGMENT**

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THE BAILIFF: We have listened to everything you have said, Miss Dorey, but we have come to the conclusion that we are unable to accept the explanations given by you.

We find it remarkable that your client can go to a Rent Control Tribunal, argue the case as to the amount of the rent, receive notification in writing and still believe that the purpose of going there was in order to enable his tenant to find out if he would be eligible for a rent rebate which had already been refused him. We find ourselves unable to accept that explanation.

Again, we reject your other point, Miss Dorey, that the second infraction was less blameworthy than the first, again we reject this. In our opinion your client knew perfectly well that the rent was fixed by the Tribunal. The provisions of the Rent Control Law are not all that difficult and certainly there has

been a large amount of publicity in respect of people who overcharge tenants.

We cannot accept that people do not know of the seriousness of overcharging. It has been in the news many times, if not in the Courts, and certainly discussed in the legislature. There is a grave shortage of properties of the sort involved here in the Island. The Crown has asked, we think, for moderate conclusions and although we have sympathy with your client in that he has lost his job because of certain circumstances, presumably beyond his control, nevertheless even taking into account the various matters you have mentioned in mitigation we cannot find that the fines are excessive and accordingly the conclusions are granted.

You are fined £300 on Count 1, or in default two weeks' imprisonment; £400 on Count 2, or in default three weeks' imprisonment, making a total of £700 or five weeks' imprisonment; further, you are fined £100 costs.

No authorities.