

Housing Department's assessment of an application for paying original rent

Investigation Report

The complainant complained to this Office against the Housing Department (“HD”) on 31 May 2021.

The Complaint

2. The complainant was a public rental housing (“PRH”) tenant of the Hong Kong Housing Authority. In December 2020, the Housing Department (“HD”) required her to pay 1.5 times net rent starting from April 2021 on the grounds that her income for the year 2019/2020 had exceeded the prescribed limit under the “Well-off Tenants Policies”.

3. Owing to the COVID-19 pandemic, the complainant’s monthly income had dropped below the prescribed limit for three consecutive months since February 2021. She, therefore, applied to HD for paying the original rent. However, HD rejected her application as her salary slip for the month of February 2021 showed that her income exceeded the prescribed limit.

4. The complainant explained to HD that she was on furlough in February 2021, but her employer deducted her wages for the unpaid leave only in March. Upon the deduction, her income for February did not exceed the prescribed limit. Nevertheless, HD still rejected her application. The complainant lodged a complaint with this Office that HD had unreasonably rejected her application for paying the original rent.

Our Findings

5. We commenced a full investigation into this complaint on 9 July 2021 and completed it in October 2021. Our findings are as follows.

“Well-off Tenants Policies” and Related Requirements

6. Under the prevailing “Well-off Tenants Policies”, any households not having domestic property ownership in Hong Kong and with income and net asset value not exceeding the prescribed levels of income and net asset value may continue to live in

their PRH flats. If their household income exceeds two times but not more than three times the limit, they will be required to pay 1.5 times net rent plus rates. Nevertheless, if a household's income drops below the prescribed limit for a continuous period of three months, or such income reduction is caused by a factor of permanent nature, the household may apply for paying a lower rent depending on the circumstance.

7. According to HD's guidelines for income declaration, for income adjustments that become effective within the declaration period and are payable or deductible at a later date, the relevant amounts should be accounted for in the income calculation.

Sequence of Major Events

8. On 26 May 2020, the complainant submitted an Income Declaration Form (2020 April) under the "Well-off Tenants Policies" to the District Tenancy Management Office ("DTMO"). DTMO held that her household income exceeded two times but not more than three times the prevailing prescribed limit.

9. On 30 December 2020, DTMO wrote to the complainant to require her to pay 1.5 times net rent plus rates starting from 1 April 2021. DTMO's letter also stated that if the reduction in her household income below the prescribed limit lasted for three months consecutively or was caused by a factor of permanent nature, and her household did not have net asset value in excess of the prescribed limit as well as having no property ownership in Hong Kong, she might apply for paying the original rent.

10. On 13 May 2021, the complainant submitted to the Property Management Company of the estate ("PMC") her salary slips for December 2020 and February to April 2021, and enquired about the criteria for applying for paying the original rent. PMC found that her income for February 2021 exceeded the prescribed limit, and she was, therefore, not qualified for paying the original rent. The complainant explained that her salary for February included the amount deductible for her furlough, and the deduction was reflected in her salary for March. PMC suggested that she ask her employer to complete an "Employer Certificate" to confirm her salary.

11. On 14 May 2021, the complainant enquired of DTMO, which also advised her to ask her employer to complete an "Employer Certificate".

12. On 24 and 25 May 2021, DTMO and PMC respectively received the complainant's application form for paying the original rent (the "Application Form") as

well as the relevant salary slips. The complainant reiterated that the salary during her furlough in February was only deducted in March. As such, her income in February did not exceed the prescribed limit.

13. In order to confirm the calculation of income involving the furlough, DTMO staff enquired of HD's Public Housing Resources Management Sub-section ("PHRM") over the phone, and asked PMC to make the same enquiry. PHRM explained in general terms that salary deductible due to furlough could normally be deducted from the basic salary (as reflected in the salary slip) of the applicant. If PRH tenants disagreed with the calculation, they could discuss with DTMO with supporting documents.

14. On 25 May, PMC again suggested that the complainant ask her employer to complete an "Employer Certificate" to confirm her salary between February and April 2021. The complainant told PMC that her employer would not issue such certificate and asked HD to exercise discretion in the matter. PMC then indicated that if her income for May 2021 showed that she was qualified for paying the original rent, she could submit an application afresh in June, together with her income proof for March to May 2021.

15. On 2 June 2021, PMC received the applicant's Application Form and her salary slips for March to May 2021. On 10 June, DTMO approved the complainant's application, retrospectively effective from 1 April 2021.

HD's Response

16. Upon revisiting the case, HD admitted that the salary slips initially produced by the complainant were sufficient proof that part of her salary for February was deducted by her employer in March. The deduction should be accounted for in her February income, which meant that her income in February had met the requirement for applying to pay the original rent.

17. HD admitted that there were improprieties on the part of DTMO and PMC staff as follows:

- (1) having too narrow an understanding of tenants' monthly income and failing to consider the actual circumstances of the case on the whole, resulting in miscalculation of the complainant's income for February;

- (2) enquiring of PHRM only verbally in general without providing details of the case or copies of the complainant's salary slips, even misunderstanding PHRM's reply and asking the complainant to produce extra income proof, indicating room for improvement in communication skills; and
- (3) failing to follow procedures and refer the case to the supervisors for approval upon receipt of the complainant's application, and taking the liberty to advise the complainant to apply again when she received the salary slip for May.

18. HD indicated that clear and sufficient guidelines for income calculation and relevant rationales were already promulgated, while methods of calculating household income were detailed in Part V (Section B) of the Application Form. In addition, the annual Declaration Form also contained explanations on the calculation of adjusted income. HD considered that the staff member concerned had made a misjudgement based on partial understanding of the relevant policies and calculation principles. The opportunity to rectify the mistake internally was also missed when the case was not referred to the supervisors for approval as stipulated in the procedures. The Department apologised for the inconvenience caused to the complainant because of the concerned staff's mishandling of her application.

19. To prevent recurrence of similar incidents, HD would implement the following measures:

- (1) enhancing staff's understanding of the policies and guidelines, by, for instance, sending them email reminders on proper handling of similar cases, and including the income calculation in this case as an example in briefings and training courses organised for frontline staff (including those of PMC) and in relevant guidelines;
- (2) strengthening internal communication to remind staff to seek supervisors' advice in special cases and to provide comprehensive information when making enquiries with PHRM for its appropriate advice; and
- (3) instructing staff of PMC and DTMO to strictly adhere to guidelines in

handling applications, including observing guidelines in income calculation, handling cases taking into account the actual situation on the whole. Besides, rejection of applications must be referred to Housing Managers for approval.

Our Comments

20. Upon our investigation, HD admitted that the salary slips for February and March 2021 produced by the complainant should have sufficed as proof that her income for February had not exceeded the prescribed limit, and of her eligibility for applying for paying the original rent (see **para. 16**). Furthermore, HD admitted there were improprieties in its staff's handling of the complainant's application (see **para. 17**). Although the Department approved the complainant's application upon receipt of her salary slips for March to May, the manner in which its staff had handled her case previously had caused her inconvenience and distress. As HD had taken the initiative to identify inadequacies, apologised to the complainant and implemented improvement measures, we hope that the complainant could feel relieved.

21. In light of the above, we consider this complaint against HD **substantiated**.

22. We urge HD to implement as soon as possible the improvement measures set out in **paragraph 19** above and continue to monitor the performance of the staff committing this error in order to prevent recurrence of similar mistakes.

Office of The Ombudsman
October 2021