



## **SUMMARY**

**Case:** Dodd – Eligibility Decision

**File No:** DBH 06032

**Court:** WHT

**Adjudicator:** Chair of the Tribunal – PA McConnell

**Date of Decision:** 26 April 2010

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### **Background**

Ms Dodd is the owner of leaky home and she filed her claim with DBH on 21 July 2009. Both the assessor and the Chief Executive of DBH concluded that the claim was not eligible because the house was built more than ten years before the claim was filed. The claimant applied for reconsideration of the Chief Executive's decision under s 49 of the Act as it erred in finding that the dwelling was built by 24 May 1999.

### **Chief Executive's Decision**

The assessor's report concluded that the claim did not meet the eligibility criteria as it was filed more than ten years after the home was built. In evaluating the assessor's report, the Chief Executive also concluded that the claim was not eligible as the dwelling was built by 24 May 1999 – more than ten years before the claim was brought. The Chief Executive noted that the failed final inspection took place on 24 March 1999 and a recheck on 24 May 1999 recorded no outstanding items

### **Claimants' Case**

Ms Dodd submitted that a number of dates were not considered in determining when the dwelling was built including the connection of electricity, the first gas reading, the date the CCC was issued and that it is likely the property was not occupied until September 1999 at the earliest. She also submitted that there was no evidence on the Council file of when the final inspection took place and that the handwritten note on the back of the plans cannot be relied on as a final inspection as it does not say it was a final inspection nor is there a name or official stamp to indicate its status

### **Decision**

While the gas supply may have not commenced until 2001, this does not on its own mean the dwelling was not built. There was also some dispute over when electricity was connected. However in accepting that the handwritten notes were a reliable record of when inspections took place and as the final inspection passed on 24 May 1999, the Chair held that it was more likely than not that the house was built to the extent required by the building consent by 24 May 1999. There was no information to suggest any building work took place after that date nor was this alleged.

### **Result**

The Chair held that the claim did not meet the eligibility criteria under the Act as the house was not built within the ten years prior to the claim being filed. In particular there was no evidence of any construction work taking place after 24 May 1999.