

SOUTHERN RENT ASSESSMENT COMMITTEE

To: B.P.T. Limited & Mr Drury
50 Bradbourne Vale Road, Sevenoaks, Kent, TN13 3QL

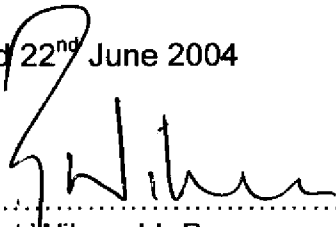
Case No: CHI/29UK/MNR/2004/0077

1. Following the inspection of the above property on the 10th June 2004 the Rent Assessment Committee has reached a provisional decision on the matter. At the hearing which took place on the same day as the inspection, Mr Drury appeared and made oral representations. The Freeholder did not attend and was not represented.
2. Mr Drury gave evidence which suggests that he has not succeeded to his parents' tenancy. Rather by conduct of the parties, he has acquired a new oral periodic tenancy which came into existence when his parents surrendered their tenancy and moved into sheltered accommodation in March 2004. If this is the case the Freeholders Section 13 Notice would be defective because the rent increase date stated in the Notice would be less than twelve months from the commencement of the tenancy.
3. The Freeholders have not had an opportunity to comment on these matters.
4. The Committee also found that the Section 13 form used by the Freeholder is not in the prescribed form as set out in the Regulatory Reform (Assured Periodic Tenancies) (Rent Increases) Order 2003. The Notice appears to be in the old format which was withdrawn in February 2003.
5. The Committee has given the matter due consideration and is minded to dismiss the application without assessing the rent. The reasons for this are:
 - a) The application is based on an old Section 13 Notice and is therefore not in the prescribed form.
 - b) It appears that the tenancy relating to this property only came into existence in March of this year. The rent review date referred to in the Landlords Notice is dated the 1st May 2004 and accordingly the effective date of increase is less than the fifty –two week period from the date of the start of the tenancy as required by Section 13 (3)(A) of the Housing Act 1988.
 - c) If the Committee decide to take this action the Landlord will be unable to recover any increase in rent under the said Notice. The Committee is aware that this decision is based on the Tenant's evidence alone and it is possible that other documentation exists which establishes a tenancy from an

earlier date. If this is the case then the Landlord may still be entitled to a rent increase notwithstanding having failed to use the prescribed Section 13 form.

- d) The Committee has not yet reached its final decision. In accordance with the provisions of Article 6 of the Human Rights Act 1988 (the right to a fair trial) it wishes to give both parties an opportunity to make written representations in the light of the findings set out above. It is possible that both sides may wish to take legal advice as to their position prior to making such written representations.
- e) Accordingly in accordance with the provisions of Regulation 8 of the Rent Assessment Committees (England and Wales) Regulations 1971 (SI 1971/1065) IT IS HEREBY ORDERED that these proceedings are hereby adjourned to enable both parties to consider these matters and take advice. Both parties are requested to make their written representations to the Committee within 21 days. On receipt of those written representations the Committee will reconvene to conclude the matter. It is not intended that there be a further hearing prior to the Committee reaching its' final decision unless either party within their written representations request such a hearing to enable them to make oral representations.

Dated 22nd June 2004



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Robert Wilson LL.B
(Chairman)