

Rent Assessment Committee: Reasons for decision

Housing Act 1988

Address of Premises

11 Bradley Road
Swindon
SN2 7QB

The Committee members were

Mr. J. S. McAllister, FRICS
(Valuer Chairman)
Mr. J. G. Orme, TD
(Lawyer Member)
Mr. J. Reichel, BSC MRICS
(Valuer Member)

1. Background

On 20th December 2006, Mrs. B. Hope, the tenant of the above property referred to the Committee a notice of increase of rent served by the landlords, Hechen Homes Ltd. and Fernpoint Ltd. under Section 13 of the Housing 1988.

The landlords notice which proposed a rent of £650 per month (p.m.), with effect from the 5th January 2007, is dated the 7th November 2006.

Apparently the tenancy commenced in December 1995, the Committee were informed by the tenant that there is no tenancy agreement, so the tenant remains in occupation as a statutory periodic tenant. The current rent is £600 p.m.

2. Inspection

The Committee did not inspect the property as the matter concerned the issue as to whether or not the Committee had jurisdiction to consider the matter of rental value as referred to in more detail below.

3. Evidence

The Committee received written representations from the landlords and tenant and these were copied to the parties.

Neither party requested a hearing at which oral representations could be made.

The salient points of the tenant's case were contained in letters dated the 23rd January 2007, 20th December 2006, 16th and 7th January 2007. The landlords written representations were contained in a letter dated the 17th January 2007 etc.

Briefly, Mrs. Hope contended that the landlords had recently acquired the property from the previous landlords and that the landlords' notice referred to above and dated the 7th November 2006, was invalid due in essence to the fact that her tenancy began on the 1st December 1995. The rental periods, calendar monthly had always been based on the 1st of every calendar month and that the commencement date for the new rent in the landlords' notice was incorrect being the 5th January 2007 rather than the first.

The tenant's evidence was that her tenancy began on 1st December 1995 and that the rental periods were monthly beginning on the first of each month. She produced previous rent determinations dated 26th April 1999 and 15th January 2004 to support this assertion.

Briefly, the landlords contended that the notice was valid, they stated that the current rent was set with effect from the 1st December 2003 and that they were in essence informed by the previous landlord that the rent was paid up to the 4th of the month and that they "took the 5th as the due day".

The landlords' evidence was that on buying the freehold they were told by the previous landlord that the rent was paid up to 4th August 2006 and, therefore, they took the next payment date to be 5th August 2006.

4. The decision

The Committee had to decide the validity of the landlords' notice, in particular with regard to the proposed commencement date of the new rent of £650 p.m. which as indicated above, the landlords stated to be the 5th January 2007.

The law with regard to this matter is contained in Section 13(2) of the Housing Act 1988 as amended by the Regulatory Reform (Assured Periodic Tenancies) (Rent Increases) Order 2003. This requires that the proposal for a new rent is to take effect at the beginning of a new period of the tenancy specified in the notice. (These requirements are actually set out in more detail in the guidance notes for landlords on how to complete the notice, notes 13 to 17).

In view of the Committee's finding of fact, it follows that a new period of the tenancy would have begun on 1st January 2007. As the landlords' notice proposed that the new rent would take effect from 5th January 2007, which was not the beginning of a new period of the tenancy, the Committee determined that the landlords' notice of increase of rent was invalid. Accordingly the Committee does not have jurisdiction to determine the tenant's application dated the 20th December 2006 referred to above.



Mr. J. S. McAllister, F.R.I.C.S.

Chairman

Dated 23rd February 2007