

Ref: BIR/37UB.MNR.2003.0090

DECISION AS TO JURISDICTION

60 WILLOWBRIDGE LANE, SUTTON IN ASHFIELD, NOTTS, NG17 1DS

1. Background

On 5th. December 2003 the Tenant of the above property, Walter Roland Stubbins applied to the Midland Rent Assessment Panel referring a notice under s. 13 of the Housing Act 1988 served upon the Tenant by the Landlord, Mr. and Mrs. D. Osborne proposing a new rent for the property of £390 per month. This notice was in the prescribed form and is dated 4th. November 2003. The starting date for the new rent is stated in the form as 7th. December 2003.

With the Tenant's notice a copy of the tenancy agreement was supplied. This is dated 28th. February 1996 and creates a six month assured shorthold tenancy from and including the 1st. March 1996. However, the rent is expressed to be payable in advance on the 7th. day of each month with the first payment of rent to be made for the period from the commencement date of 1st. March 1996 to the first rent payment date.

The tenancy has continued after the initial six month period and is therefore now a monthly tenancy but is otherwise upon the terms of the tenancy agreement.

s. 13 (2) of the Housing Act 1988 provides that 'for the purpose of securing an increase in the rent under a tenancy to which this section applies, the landlord may serve on the tenant a notice in the prescribed form proposing a new rent to take effect at the beginning of a new period of the tenancy specified in the notice.....'.

Because the date of 7th. December 2003 does not appear to be the commencement of a new period of the tenancy, a Committee has been appointed to hold a preliminary hearing to determine whether the notice served by the Landlord is a valid notice, and whether they have jurisdiction to proceed to a determination under s.14 of the Housing Act 1988.

2. Representations and Hearing

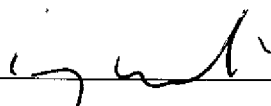
A hearing was held in Nottingham on 23rd. January 2004. The Landlord did not attend but by letter dated 31st. December 2003 maintained that as the rent was payable under the tenancy agreement on the 7th. of each month this was the date entered upon the Form 4B, and that therefore the Committee should have jurisdiction.

The Tenant had not made any written representations but did attend the hearing. He said that his solicitor had explained that the Landlord's notice may be invalid because of the date inserted, but did not make any further representations.

DETERMINATION

The Committee noted the Landlord's submissions, but upon a reading of the terms of the tenancy agreement were satisfied that the tenancy is now a monthly tenancy and that the period of tenancy referred to in s. 13 (2) of the Housing Act 1988 must therefore always commence on the 1st. day of a month as the original term commenced on 1st. March 1996. Accordingly, the first date upon which a new rent could take effect after 4th. November 2003 was 1st. January 2004, and that this date should have been that specified in paragraph 4 of the Landlord's notice.

The Committee therefore determined that the notice served by the Landlord is not in accordance with s.13 (2) of the Housing Act 1988 and is invalid. Accordingly they do not have jurisdiction in this case.



W.J.MARTIN
Chairman

Clerk to the Committee: Mrs. A. Ahmed

Dated: - 3 FEB 2004