

Flat 5, 19 Radnor Road, Handsworth, Birmingham B20 3SP

Date of hearing 6 May 2005

Decision and Reasons of Rent Assessment Committee:

Mr J C Avery
Mr J Dove
Mrs N Jukes

Applicant: Mr T Danian, Tenant
Respondent: Midland Area Housing Association, Landlord

1. The tenant, Mr Danian, had made an application under the Housing Act 1988 Section 13 (4), referring to a Rent Assessment Committee a notice proposing a new rent under an Assured Periodic Tenancy. The Committee is bound by the legislation relating to increasing the rent of an Assured Tenancy, that is the Housing Act 1988, Statutory Instrument 2003 No 259 and Statutory Instrument 2003 No 260, which prescribe the minimum requirements of a notice to increase the rent. Since it appeared that the notice might have been defective a hearing was arranged to determine, as a preliminary issue, whether the Committee had jurisdiction.
2. The Committee considered the application at a hearing on 6 May 2005; the applicant and Mr Cockcroft for the landlord both appeared.
3. The landlord had served a notice dated 23 February 2005, to increase the rent from £61.57 per week to £65.79 per week. No notes were attached to the copy of the notice sent to the Committee and in the place for signature appeared the name "Christine Price, Neighbourhood Housing Manager", typed in a different font from the rest of the notice. These two issues gave rise to the question of whether the notice was valid.
4. It was recognised by the Committee that Mr Danian's own application had been made on an incorrect form but Mr Cockcroft said that he did not challenge the Committee's jurisdiction on that account. In any event, the Committee took the view that the form he had used, while intended for use only in respect of Assured Shorthold Tenancies, was so similar to the correct form that it would leave the landlord in no doubt about the tenant's intention to challenge the proposed rent.

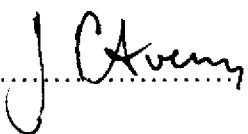
The Notes

5. Mr Danian told the Committee that he was certain that no explanatory notes had been attached to the notice he received but he had not considered that they were of such significance as to warrant a request to the landlord to supply them. He had lost the original documents but remembered what they had been – a covering letter, the notice and another sheet concerning legal matters. When shown the "notes" he confirmed that they had not been the additional sheet. He had known what the rent would be and thought he knew where to go to challenge it. In fact he had mistakenly approached the Rent Service and had been directed by them to the Rent Assessment Panel. He did not challenge the validity of the notice.

6. Nevertheless, in order to have jurisdiction to determine the rent the Committee must be satisfied that the notice is valid, irrespective of the attitude of the parties.
7. Mr Cockcroft produced a witness statement from Eileen Legrue of Phoenix Sheltered Workshop, an organisation used by Midland Housing to dispatch rent increase notices. Mrs Legrue said that she had supervised the dispatch of these notices and she was particularly aware of the necessity for inclusion of the notes because of a previous problem.
8. On the balance of probabilities the Committee finds that the notes are more likely than not to have been attached to the notice and the notice is not invalid on those grounds.

The Signature

9. On the second issue, Mr Cockcroft represented that the name "Christine Price" on the notice was an "electronic signature" and that this authentication of the notice was used on the advice of solicitors.
10. The Committee does not necessarily agree that it is an "electronic signature" as defined in the Electronic Signature Regulations 2002 but is aware of the relevant regulations in Statutory Instrument 2003 No 260, which are reproduced in the guidance notes for landlords attached to the notice of increase: *"the signature does not have to be hand-written if, for instance, the form is being printed"*
11. The Committee concludes therefore that the notice of increase was signed in accordance with the regulations and that therefore it does have jurisdiction.
12. A further hearing will be arranged to determine the rent.

Signed..........Chairman Date **20 JUN 2009**