

**MIDLANDS RENT ASSESSMENT PANEL**

**File Reference No: BIR/37UC/MNR/2006/0123**

**RENT ASSESSMENT COMMITTEE**

**Housing Act 1988 S.13**

**DECISION NOTICE REGARDING JURISDICTION**

**41 Gateford Rise, Worksop, Nottingham, S81 7DU**

1. On 13<sup>th</sup> June 2006 the Tenants of the above property, **Mr. Stephen Myers and Mrs. Emma Myers**, referred to a Rent Assessment Committee a notice served on her by the Landlords, **The Executors of M.E. Coggan**, by their Agents, **Charlesworth and Co.**, proposing a new rent to be payable from Sunday 9<sup>th</sup> July 2006. The notice is dated 25<sup>th</sup> May 2006.

2. Section 13(2) of the Housing Act 1988 ('the Act') as amended by the Regulatory Reform (Assured Periodic Tenancies) (Rent Increases) Order 2003 ('the regulatory reform order 2003') provides:

*'(2) 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, being a period beginning not earlier than-*

*(a) the minimum period after the date of service of the notice: and*

*(b) except in the case of a statutory periodic tenancy-*

*(i) in the case of an assured agricultural occupancy, the first anniversary of the date on which the first period of the tenancy began:*

*(ii) in any other case, on the date that falls 52 weeks after the date on which the first period of the tenancy began; and*

*(c) if the rent under the tenancy has previously been increased by virtue of a notice under this sub-section or a determination under Section 14 below*

*(i) in the case of an assured agricultural occupancy, the first anniversary of the date on which the increased rent took effect:*

*(ii) in any other case, the appropriate date*

*(3) The minimum period referred to in subsection (2) above is-*

*(a) in the case of a yearly tenancy, six months;*

*(b) in the case of a tenancy where the period is less than one month, one month; and*

*(c) in any other case a period equal to the period of the tenancy.*

The 'appropriate date' is defined in a new section 3A and 3B:

*3A The appropriate date referred to in subsection (2) (c) (ii) above is –*

*(a) in the case to which subsection (3B) below applies, the date that falls 53 weeks after the date on which the increased rent took effect;*

*(b) in any other case, the date that falls 52 weeks after the date on which the increased rent took effect.*

*3B This subsection applies where-*

*(a) the rent under the tenancy has been increased by virtue of a notice under this subsection or a determination under section 14 below on at least one occasion after the coming into force of the Regulatory Reform (Assured Periodic Tenancies) (Rent Increases) Order 2003; and*

*(b) the fifty third week after the date on which the last such increase took effect begins more than six days before the anniversary of the date on which the first such increase took effect'*

3. Section 13 (4) of the Act provides that:

*'Where a notice is served under subsection (2) above, a new rent specified in the notice shall take effect as mentioned in the notice unless, before the beginning of the new period specified in the notice,-*

*(a) the tenant by an application.....refers the notice to a rent assessment committee: or*

*(b).....'*

4. Section 45 of the Act states that 'prescribed' means prescribed by regulations made by the Secretary of State by statutory instrument. The Assured Tenancies and Agricultural Occupancies (Forms) Regulations 1997 ('the 1997 Regulations') provide by paragraph 2 that any reference to the form in the Regulations is a reference to the form bearing that number in the Schedule 'or to a form substantially to the same effect'.

5. The form currently prescribed is Form 4B contained in The Assured Tenancies and Agricultural Occupancies (Forms) (Amendment) (England) Regulations 2003.

6. The Landlord's notice is in the form of a letter from Charlesworth and Co. dated 25<sup>th</sup> May 2006 which reads as follows:

*'We are instructed by the Landlords to inform you that under the terms of your Tenancy Agreement you are granted a further year's tenancy at a rent of £70 per week from Sunday, the 9<sup>th</sup> July 2006 (payable on the 14<sup>th</sup> July 2006), this to be reviewed again next year.. Could you please adjust your Direct Debit accordingly.'*

7. A copy of the Tenancy Agreement was provided by Charlesworth and Co. This granted a tenancy for one year from Sunday 8<sup>th</sup> July 2001 at a weekly rent of £57. Clause 8 of the Agreement provides:

*'This Agreement shall be in force for the period of one year commencing the 8<sup>th</sup> day of July 2001 at the expiration of which time if the Tenant is desirous of a further period of 12 months to give Notice to the Landlord not less than 4 weeks before the expiration of this Agreement, during which time the landlord shall notify the Tenant of the terms of the new Tenancy Agreement.'*

8. Because the letter from Charlesworth and Co. does not appear to be a Notice in Form 4B, or a form 'substantially to the same effect', a Committee was appointed to determine whether the Landlord's notice was effective as their jurisdiction depends upon its validity.

### **REPRESENTATIONS AND HEARING**

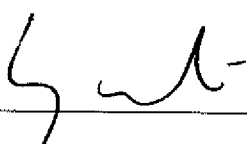
9. Representations were received from the parties, but these did not relate to the question of jurisdiction.

10. A Hearing was arranged at Bassetlaw District Council offices in Worksop on 2<sup>nd</sup> August 2006, at 12 noon. Neither party attended or sent any representations.

### **DETERMINATION**

11. The Committee note that the letter from Charlesworth and Co. dated 25<sup>th</sup> May 2006 refers to the grant of a 'further year's tenancy'. However, they determine that, on the evidence before them, the Tenants are holding over under the Tenancy Agreement dated 8<sup>th</sup> July 2001, and that therefore the rent can only be increased under the statutory procedure contained within section 13 of the Act.

12. The Committee determine that they do not have jurisdiction in respect of the Tenant's application to them because the letter proposing an increase is not in the prescribed form 4B, nor is it in a form 'substantially to the same effect'.



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W. J. Martin: Chairman

Date of Decision: 2<sup>nd</sup> August 2006

Committee Members:

Mr. W. J. Martin  
Mr. K.G. Bloor F.R.I.C.S  
Mr. M. Ryder

Dated

2006