

MIDLAND RENT ASSESSMENT PANEL

Ref: BIR/17UB/MNR/2005/0008

DETERMINATION AS TO JURISDICTION OF A RENT ASSESSMENT COMMITTEE IN RESPECT OF FLAT 10 45/47 LACEYFIELDS ROAD HEANOR DERBYSHIRE

Introduction

1. This case concerns a preliminary issue as to the jurisdiction of a Rent Assessment Committee to make a determination under section 14 of the Housing Act 1988 ("the 1988 Act").
2. The tenants, Mr C. A. Foxwell and Miss. M. J. Ping, hold Flat 10 45/47 Laceyfields Road Heanor Derbyshire ("the subject property") under a tenancy which the tenants claim is an assured tenancy under the 1988 Act, whereas the landlord, CHW Properties Ltd, claims that this is a assured shorthold tenancy.
3. On 7 January 2005 the landlord wrote a letter to the tenants stating that it proposed to increase the rent on the subject property to £75 per week. The tenants made an application to the Rent Assessment Committee under section 13(4) of the 1988 Act on 22 February 2005 referring the landlord's proposal for a new rent to be considered by the Committee
3. The preliminary issue which arises is to whether the Committee is empowered by section 14 of the Housing Act 1988 to determine the tenant's application and therefore has jurisdiction in this matter, in consequence of the fact that section 13(4) of the 1988 Act provides that a tenant's application to the Committee is to be made where the landlord, in accordance with section 13(2) of the 1988 Act, has served on the tenants a notice in the prescribed form proposing a new rent.

The hearing

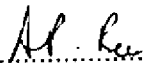
5. A Rent Assessment Committee was constituted for the purposes of determining the preliminary issue and the hearing was held on 5 April 2005 at the Heanor Leisure Centre. Mr. H. Dervish of Derbyshire Housing Aid represented the tenants and the landlord was represented by Mr. J. Homer, a director of the landlord company. Mr Dervish explained that the application had been made to the Committee under the 1988 Act on the basis of the tenants'

contention that they had an assured tenancy. Mr. Homer responded by stating that it was the landlord's contention that the tenancy was an assured shorthold tenancy. The Committee drew the attention of the parties to the relevant provisions in section 13 of the 1988 Act, compliance with which was a pre-condition of the Committee having jurisdiction under section 14 of the 1988 Act.. The committee also explained to the parties the Committee was not empowered to determine the dispute between the parties as to whether the tenancy was an assured tenancy or an assured shorthold tenancy, this being a matter for the courts if the parties could not agree the point.

Determination of the Committee

6. The Committee determine that the landlord's letter of 22 February 2005 seeking a new rent was not in the form prescribed by section 13(2) of the 1988 Act and consequently the tenants' application referring the matter to the Committee for determination was invalid since, by virtue of section 13(4) of the 1988 Act, the tenant can only make a valid application in response to a notice from the landlords in the form prescribed by section 13(2) of the 1988 Act.

Signed

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Anthony Peter Bell

Dated

25 APR 2005