

MIDLANDS RENT ASSESSMENT PANEL

File Reference No: BIR/17UD/MNR/2006/0012

RENT ASSESSMENT COMMITTEE

Housing Act 1988 S.13

DECISION NOTICE REGARDING JURISDICTION

34 Hollingwood Crescent, Chesterfield, Derbyshire S43 2HE

1. On 2nd February 2006 the Tenant of the above property, **Susan Thompson** referred to a Rent Assessment Committee a notice served on him by the Landlord, **Northumberland & Durham Property Trust Limited**, by its Agent **Nicholas Richardsons** proposing a new rent to be payable from Wednesday 3rd May 2006. The notice is dated 26th January 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-.....'

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 Form 4B and but it is not clear that the Notice is valid as it proposes an increase from a Wednesday. Upon enquiry of the parties it has been ascertained that the current tenancy was granted under Section 20 of the Housing Act 1980 as an Assured Shorthold tenancy. A copy of the tenancy agreement has been provided by the Tenant, which unfortunately, does not include page 1, which contains the operative parts of the agreement. However, the back sheet to the agreement indicates that the tenancy agreement is dated Saturday 24th June 1989. There is also provided the Section 20 (of the Housing Act 1980) Notice which is dated Wednesday 21st June 1989 but which states at paragraph 1:

'1. You are proposing to take a tenancy of the dwelling known as 34 Hollingwood Crescent, Chesterfield from 24th June 1989 to 23rd June 1990.'

7. The Committee determine on the evidence before them that on the balance of probabilities the tenancy commenced on Saturday 24th June 1989 and that therefore to comply with section 13 (2) of the Act a Notice of Increase must specify a date which is a Saturday

8. The Committee accordingly determine that they do not have jurisdiction in respect of the Tenant's application to them because the Landlord's Notice proposes a date for commencement of the new rent which is invalid.

A handwritten signature in black ink, appearing to be 'W. J. Martin', written over a horizontal line.

W. J. Martin: Chairman

Date of Decision: **18 MAY 2006**

Committee Members:

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

Dated **18 MAY 2006**