

MIDLANDS RENT ASSESSMENT PANEL

File Reference No: BIR/00CS/MNR/2005/0127

RENT ASSESSMENT COMMITTEE

Housing Act 1988 S.13

DECISION NOTICE REGARDING JURISDICTION

63 Alton Grove, Stanley Road, West Bromwich, B71 3JJ

1. On the 8th August 2005 the Landlord of the above properties, **Mrs. M. Howse**, served on the Tenant, **Mrs. J. Welch** a notice proposing a new rent in respect of the above property.

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

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

4. The Landlord's notice is in the prescribed form, but neither the starting date for the new rent, nor the first rent increase date after 11th February 2003 has been inserted in the form. The commencement date is a direct requirement of section 13(2) of the Act, the provisions regarding which has been highlighted in the extract from the section set out in paragraph 2 above. The insertion of the first rent increase date after 11th February 2003 is to enable the Tenant to calculate when the provisions of Section 13 (3B) apply.

7. Because of the above omissions from the form a Committee was appointed to consider whether the Landlord's notice satisfies the statutory requirements as their jurisdiction depends upon the validity of the Landlord's notice.

8. The Tenant did not make any representations but the Landlord by letter dated 2nd September 2005 stated:

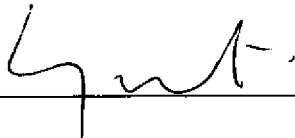
‘..I apologise for not having specified the date when the increase is to take effect. This was purely because I didn't know how long it would take for you to consider the application but if a date needs to be stated I suggest it takes effect from 1 November as I see from your letter the Committee will be meeting on 18 October.

In relation to your statement that the notice fails to specify the first rent increase date after 11 February 2003, I would advise you that this was the date of the last rent increase when the rent was put up to £60 per week and that it has not been increased since that date.’

DETERMINATION

9. For a notice to satisfy the requirements of section 13 (2) it must specify a date from which the proposed new rent is to commence. The date must be the beginning of a ‘new period of the tenancy’. As the tenancy in the current case is weekly, the notice must specify a day which is the same as the day upon which the tenancy commenced. If this is a Monday, the notice must specify a Monday. The Committee cannot insert a date from a letter to them, and accordingly they determine that the Landlord's notice of 8th August 2005 is invalid because of the omission of the commencement date. Accordingly, they have no jurisdiction to consider the Tenant's application to them.

10. If the proposed increase in rent is the first since the 11th February 2003, the date to be inserted in paragraph 3 of Form B is the same as the date in paragraph 2, i.e. the commencement date for the proposed new rent.



W. J. Martin: Chairman

Date of Decision: 18th October 2005

Committee Members:

Mr. W. J. Martin
Mr. R. Bailey F.R.I.C.S
Mrs. N. Jukes

Dated

2005