

**20 BRIARLEY, BEACON VIEW ROAD, WEST BROMWICH**  
**WEST MIDLANDS B71 3PG**

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DETERMINATION AS TO JURISDICTION  
SECTION 22 HOUSING ACT 1988


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1. This is the decision of a Rent Assessment Committee of the Midland Rent Assessment Panel on a preliminary issue as to jurisdiction under Section 22 of the Housing Act 1988 ("the 1988 Act").
2. The Tenant is Mr Jude Freeman who has held a tenancy of 20 Briarley, Beacon View Road, West Bromwich, West Midlands B71 3PG (the "Property") since 1st September 2004.
3. At the commencement of the tenancy the Landlord was Treadwell Investments Limited. The current Landlord is Mr Ahmed Hamid (the "Landlord").
4. On 1st April 2006 the Landlord and the Tenant entered into an Assured Shorthold Tenancy Agreement for a term of 6 months commencing on 1st April 2006 at a rent of £350 per month.
5. Following the expiry of the initial fixed term on 30th September 2006 the Tenant has remained in occupation under the terms of a periodic tenancy pursuant to Section 5 of the Act.
6. On 10th October 2006 the Tenant made Application to a Rent Assessment Committee for determination of a rent under an Assured Shorthold Tenancy pursuant to Section 22 (1) of the 1988 Act as amended by Section 100 of the Housing Act 1996.
7. On 12th October 2006 the Landlord and the Tenant were given notice by the Panel Office that the Committee proposed to hold an oral preliminary hearing on 21st November 2006 to consider whether or not the Committee has jurisdiction to determine a rent under an Assured Shorthold Tenancy if more than 6 months has elapsed since the beginning of the tenancy.

8. Both the Landlord and the Tenant have provided written representations which were considered by the Committee. However neither the Landlord nor the Tenant asked for an oral hearing to be arranged.
9. Section 22 of the 1988 Act makes provision for reference of excessive rents to a Rent Assessment Committee.
10. The Committee's jurisdiction is set out in Section 22 (2) (aa) :-

"No application may be made under this Section if the tenancy is one to which Section 19 A above applies and more than 6 months have elapsed since the beginning of the tenancy or, in the case of a replacement tenancy, since the beginning of the original tenancy."
11. A replacement tenancy is defined in Section 21 (7) as a tenancy
  - (a) which comes into being on the coming to an end of an Assured Shorthold Tenancy, and
  - (b) under which, on its coming into being –
    - (i) the Landlord and Tenant are the same as under the earlier tenancy as at its coming to an end, and
    - (ii) the premises let are the same or substantively the same as those let under the earlier tenancy as at that time."
12. Section 19 A refers to assured tenancies which are entered into after the coming into force of the Housing Act 1996 or come into being by virtue of Section 5 of the 1988 Act.
13. The Committee determines as follows :-
  - (i) The Tenant currently occupies the premises under a periodic tenancy by virtue of Section 5 of the 1988 Act and accordingly the tenancy is one to which Section 19 A applies.
  - (ii) The periodic tenancy which came into effect on expiry of the fixed term on 30th September 2006 is a replacement tenancy as defined in Section 21 (7) as it came into being on the coming to an end of the Assured Shorthold Tenancy Agreement and the Landlord, Tenant and premises were the same.

- (iii) The original tenancy (as defined in Section 21 (6) of the 1988 Act) is the Assured Shorthold Tenancy Agreement for a term of 6 months which commenced on 1st April 2006.
- (iv) The Tenant's Application was made on 10th October 2006 and accordingly was made more than 6 months after the beginning of the original tenancy.
- (v) The Committee determines that it has no jurisdiction to consider the Tenant's Application by virtue of Section 22 (2) of the 1988 Act which provides that no application may be made under that Section if more than 6 months have elapsed since the beginning of the original tenancy.
14. The Committee determines that it does not have jurisdiction to consider the Tenant's Application under Section 22 of the 1988 Act.

Signed  .....

MR D JACKSON – Chairman

**23 NOV 2006**