

HOUSING ACT 1988 – SECTIONS 13 and 14


3 OLIVE MOUNT, OLDBURY, WARLEY, WEST MIDLANDS B69 2DS

DETERMINATION AS TO JURISDICTION

1. This decision 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 tenant John Harding holds the Premises under an Assured Periodic Tenancy which began on the death of his mother on 8th December 1993. The landlord is M D Thornton.
3. By Notice dated 10th October 2006 ("the Landlord's Notice") the Landlord proposed a new rent of £88.46 per week and a starting date for the new rent of "Wednesday 8th December 2006." The Notice was expressed to be pursuant to Section 13 (2) of the 1988 Act as amended by the Regulatory Reform (Assured Periodic Tenancies) (Rent Increases) Order 2003.
4. By an Application dated 12th November 2006 (the "Tenant's Application") the Tenant referred the Notice proposing a new rent under an Assured Periodic Tenancy to a Rent Assessment Committee pursuant to Section 13 (4) of the 1988 Act.
5. In order to determine a rent under Section 14 of the 1988 act a Rent Assessment Committee must have a valid application from the Tenant under Section 13 (4) in the prescribed form. That application must refer to a valid Section 13 (2) Notice from the Landlord. Under section 13 (2) of the 1988 Act the Landlord is required to 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."
6. A Rent Assessment Committee was constituted for the determination of the preliminary issue and a hearing was held on 21st December 2006. The Committee was satisfied that both the Landlord and the Tenant had notice of the hearing. Neither party asked for an oral hearing to be arranged. Neither party attended or submitted written representations.
7. The Committee considered the dicta of Mummery L J in *Ravenseft Properties Limited v Hall* [2002] 1 EGLR 9

"The question whether a notice [under section 20] was in the prescribed form or in a form "substantially to the same effect" was a question of fact and degree in each case turning on comparisons between the prescribed form and the particular form of notice given."

8. The Committee finds that the tenancy of the Premises commenced on Wednesday 8th December 1993 whereas the Landlord's Notice proposes a starting date for the new rent of "Wednesday 8th December 2006." In fact 8th December 2006 fell on a Friday and not on a Wednesday. The Committee further determines that as this is a weekly tenancy commencing on a Wednesday the date specified as the "beginning of a new period of the tenancy" should also be a Wednesday and not any other day of the week.
9. The Committee therefore determines that as the Landlord has failed to specify the beginning of the new period of the tenancy as the starting date for the new rent, the Landlord's Notice was not in the prescribed form or in a form substantially to the same effect. It follows from that determination that the Landlord's Notice was an invalid Notice for the purposes of Section 13 (2) of the 1988 Act and that accordingly the Committee has no jurisdiction to make a determination under Section 14 of the 1988 Act on the Tenant's Application.

Signed 
DAVID JACKSON (Chairman)

Date **11 JAN 2006**
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