

MIDLAND RENT ASSESSMENT PANEL

DECISION AS TO JURISDICTION

Goodrest Farmhouse, Goodrest Lane, Kings Norton, Birmingham B38 9EX

Background:

1. By virtue of an Agreement between herself and The University of Birmingham dated 30th May 1994, the Tenant, Miss Margaret Harthill, holds an Assured Tenancy of the subject property under the Housing Act 1988.
2. On 8th February 2005, the Landlord wrote to Miss Harthill enclosing a formal Notice (dated 11th February 2005) in which it was proposed to increase the rent under the Tenancy Agreement to £115 per week with effect from 6th April 2005. The rent at that time was £84 per week, having been fixed at that level in April 1998.
3. On 3rd March 2005, Miss Harthill applied to the Rent Assessment Panel for the matter to be considered in accordance with Section 13(4) of the Housing Act 1988.
4. In view of the rent review provisions contained in the Second Schedule to the Tenancy Agreement, it was necessary to consider as a preliminary issue whether the Panel had the power to deal with the application from Miss Harthill. Accordingly, a hearing was arranged for 22nd April 2005 at the Panel's offices in Birmingham. At the hearing the University was represented by its Estates Officer, Mr Tim Pearson, and Miss Harthill appeared in person. Both parties made oral submissions to the Panel.

Decision:

1. Section 13 (1) of the Housing Act 1988 details the type of (periodic) tenancy to which the later provisions relating to increases in rent apply. Under Section (1) (b), it states that Section 1 as a whole applies to, "*any other periodic tenancy which is an assured tenancy, other than one in relation to which there is a provision, for the time being binding on the tenant, under which the rent for a particular period of the tenancy will or may be greater than the rent for an earlier period*". (Bold italics inserted by the Panel).
2. Accordingly, as the Second Schedule to the Tenancy Agreement by virtue of which Miss Harthill occupies the property contains just such a provision as is contemplated by Section (1) (b), it is not within the power of the Panel to determine the new rent.
3. The Panel therefore determines that it does not have jurisdiction in the matter.

Chairman:



Dated:

26 APR 2005

Rent Assessment Panel: N R Thompson FRICS (Chairman)

P J H Waller

D Douglas