

2 ROSEYCOOMBE COTTAGE,
RUGBY ROAD,
COVENTRY
WEST MIDLANDS
CV3, 2BB

CASE NUMBER BIR/44UD/MNR/2006/0145

DECISION AS TO JURISDICTION

BACKGROUND:

1. The Tenant of the above-mentioned property is Mr Colin E Swinfen and the Landlord is Mr DJ Hill.
2. On the 14th July 1990 Mr Colin E Swinfen in the capacity of an agricultural employee of Mr Hill [the employer], entered into a Tenancy Agreement in respect of the subject property. The agreement enabled the Tenant to remain in occupation of the said property as an agricultural worker rent-free. The agreement specified that on the termination of the employment (howsoever caused) the tenant was to yield up the premises fixtures and fittings garden grounds etc.
3. On the 12th May 2006 Mr Swinfen's employment with Mr DJ Hill was terminated due to a change of career and direction. Mr Swinfen no longer has a connection with agriculture and farming. Mr Swinfen remains in occupation of the subject property.
4. The Tenant of the subject property applied to the Midland Rent Assessment Panel referring a notice under Section 13 (4) Housing Act 1988 served upon him by the Landlord proposing a new rent of £600.00 per month. The Tenant's notice is dated 31st August 2006 and was received by the Panel Office on the 1st September 2006. The Landlord's notice proposing a new rent is dated 10th July 2006 and the new rent proposed was due to commence on the 14th August 2006. The Landlord's notice proposing a new rent was in respect of an agricultural occupancy.

5. On the 8th September 2006 the Midland Rent Assessment panel office wrote to the parties informing them that the preliminary opinion of the procedural chair was that there might not be jurisdiction to consider the matter due to the validity of the Landlord's notice.

They were informed that an oral preliminary hearing would take place on the 11th October 2006 to determine the matter and they were advised as to their respective right to attend and or submit written representations.

6. Both parties indicated that they would like to attend the hearing. Written representations were received from the Landlord and these were copied to the Tenant.

HEARING:

7. On the 11th October 2006 a preliminary hearing took place at 1.40pm in Coventry to determine whether the notice served by the Landlord on the Tenant was valid and whether the Committee had jurisdiction to proceed to a determination under section 14 Housing Act 1988.
8. The hearing was attended by Mr Hill [the landlord] and Mrs Hill and the Tenant Mr Swinfen.
9. At the hearing the Tenant informed the Committee that he had misplaced the earlier notice handed to him by the Landlord but confirmed that the notice did contain the full guidance notes. The original notice was produced at the hearing and it did contain the guidance notes on the reverse. He also said that he intended to vacate the subject property as soon as he was able to find alternative accommodation and that he was willing to make a payment to the Landlord in respect of his occupation of the subject property.
10. Mr and Mrs Hill told the Committee that only agricultural workers were able to occupy the subject cottage. The current Tenant Mr Swinfen was no longer in their employment and no longer working in agriculture or farming and that, they needed to have a rent for his occupation. They said that they had no option but to serve the

notice of an increase in rent even though they conceded it was not the correct notice given the status of the Tenant. They accepted that the tenancy had come to an end in May 2006.

DETERMINATION:

11. The Committee having read all the documentation filed and the oral representations of the parties determined that: -

- a) The Tenant Mr Swinfen had terminated his employment with the Landlord on the 12th May 2006 he was no longer an agricultural tenant;
- b) The Landlord's notice was by reason of the above-mentioned factor not the correct notice;
- c) The Committee noted in any event that the application by the Tenant was not received by the Panel Office when the new rent specified in the notice of increase was to take effect rendering the application out of time.

12. By reason of the above mentioned factors the Committee therefore determined that the Landlord's Notice served by the Landlord in this matter was not in the prescribed form and accordingly was an invalid notice for the purposes of section 13(2) Housing Act 1988; and that the Committee has no jurisdiction to make a determination under section 14 of the 1988 Act on the Tenant's application dated 31st August 2006.

Mrs P Dhadli
Legal Chairperson.
11th October 2006.



Clerk to the Committee: Damian Bradley