

MIDLAND RENT ASSESSMENT PANEL
REFERENCE: BIR/00CU/MNR/2004/0076

81 TYNDALE CRESCENT
GREAT BARR
BIRMINGHAM
B43 7NR

DECISION AS TO JURISDICTION

BACKGROUND:

1. The Tenant of the above-mentioned property is Peter William Middleton and the Landlord's are First National Housing Trust.
2. On the 29th July 2004 the Tenant of the subject property applied to the Midland Rent Assessment Panel referring a notice under Section 13 Housing Act 1988 served upon him by the Landlord proposing a new rent of £95.00 per week. The Landlord's notice is dated 19th July 2004 and the new rent proposed was backdated to commence on the 7th May 2004
3. The Landlord's notice included an assured shorthold tenancy agreement pursuant to section 20 Housing Act 1988 as amended by the 1996 Act.
4. The tenant has resided in the above-mentioned property since 1947. His Mother Mrs Middleton held a Rent Act 1977 tenancy until her death on the 6th May 2004. The Tenant's case is that he should have the status of an assured tenant and not an assured shorthold tenant.

RELEVANT STATUTORY PROVISIONS:

5. Section 13[2] Housing Act 1988 provides that *“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 the service of the notice [one months notice in this case as per section 13[3][b]].

6. By a letter dated 9th August 2004 the Midland Rent Assessment panel office informed the parties that Section 13 of the Act applies only to assured tenancies, not assured shorthold tenancies. Since it appeared that the Landlord was proposing to let the premises on a shorthold tenancy basis it may be decided that an application made under Section 13 is not valid and that there is no jurisdiction to consider rent.

A Committee was appointed to hold a preliminary hearing to determine whether the notice served by the Landlord is a valid notice and whether they have jurisdiction to proceed to a determination under Section 14 Housing Act 1988.

REPRESENTATIONS AND HEARING:

7. A hearing was held in Birmingham on the 20th September 2004. The Tenant attended the hearing; there was no representation on behalf of the Landlord. Both the Tenant and the Landlord had sent in written representations and these had been copied to the parties.

8. Prior to the hearing a fax transmission was received from the Landlord dated the 17th September and this was also sent to the Tenant. It was apparent from the letter the Landlord now accepted that the Tenant was in fact entitled to an assured tenancy.

DETERMINATION:

9. The Committee determined that:-

The Landlords' notice was not in the prescribed form and although the letter did contain much of the relevant information it was defective in that it failed to give to the Tenant the appropriate notice pursuant to section 13[3][b].

The landlords notice did not therefore comply with section 13[2] of the Housing Act 1988 and is not valid. Accordingly they do not have jurisdiction in this case to make a determination as to rent.



MRS P DHADLI
Chairperson.

Clerk to the Committee: Jane Hickins
Dated: 12 OCT 2004