

Case Ref. BIR/47UE/MNR/2005/0031

Rent Assessment Committee

Decision as to Jurisdiction

**Regarding the validity of a Landlord's Notice of Rent Increase
for the purpose of S.13 of the Housing Act 1988**

in respect of

19 Russell House, St.Clements Close, Worcester, WR2 5DY

Hearing: 27th April 2005 at The Commandery, Sidbury, Worcester

Tribunal: I.D. Humphries B.Sc.(Est.Man.) FRICS

W. Hatcher Esq.

Mrs N. Jukes

1 Introduction

- 1.1 The Rent Assessment Committee are required to consider whether a letter sent by the Landlord is sufficient to qualify as Notice of Rent Increase in accordance with s.13(2) of the Housing Act 1988.

2 Facts Found

- 2.1 Mr Cyril Ashcroft holds an Assured Tenancy of 19 Russell House, St.Clements Close, Worcester, WR2 5DY by a Tenancy Agreement dated 20th May 2004. The term commenced on 29th March 2004 although Mr Ashcroft originally held a tenancy that commenced on 11th August 2003. The tenancy is weekly. The Landlord is Worcester Community Housing Ltd.
- 2.2 On 28th March 2005 the Landlord sent the Tenant a letter requesting a rent increase to £58.50 per week with effect from 4th April 2005.
- 2.3 The Notice was headed 'Rent and Service Charge Increases for 2005/2006' and advised the Tenant in the following terms:
- 'If you have not signed a new tenancy agreement in the last 12 months you may be entitled to receive a formal notice of rent increase by virtue of Section 13 of the Housing Act 1988. If this applies to your tenancy the formal notice will be forwarded to you within the next few weeks.'
- 2.4 On 13th March 2005 the Tenant applied to the Rent Assessment Committee for the rent to be determined in accordance with s.13(4) of the Housing Act 1988.
- 2.5 On receiving the application, it became apparent that the Landlord's Notice of Increase was not exactly in accordance with the Assured Tenancies and Agricultural Occupancies (Forms) (Amendment) (England) Regulations 2003 and a Rent Assessment Committee was convened to determine whether the letter of 28th March 2005 constituted a valid Notice.
- 2.6 A Hearing was held at The Commandery, Sidbury, Worcester on 27th April 2005 attended by Mr Ashcroft. The Landlord was neither present nor represented.
- 3 Submissions**
- 3.1 Mr Ashcroft submitted that in his opinion the Landlord's letter did not constitute a legal Notice. He had not read it as such and said there was nothing in the letter that would lead a recipient to assume it was a Notice.
- 3.2 There were no representations from the Landlord.

4 Decision

4.1 The Committee compared the Landlord's letter with the notice prescribed by the 2003 Regulations, Form 4B, and held that for the letter to qualify as a valid Notice for Section 13 it would need to contain the following information:

- 1 the rent the landlord proposed,
- 2 the date the proposed new rent would take effect,
- 3 the action the tenant must take if he wished to challenge the rent which would require (a) that he would have to apply to a rent assessment committee, (b) the date by which he would have to apply and (c) the form he would have to use.

4.2 In relation to the Landlord's letter of 28th March 2005 the Committee found:

- 1 that the Notice proposed a new rent of £58.50 which satisfied the first requirement;
- 2 that the increase was proposed to take effect on 4th April 2005 but:
 - (a) as this was neither the anniversary of the tenancy nor the original tenancy;
 - (b) it gave less than one month's notice from the date of service on 28th March and the date of effect on 4th April 2005;
 - (c) it was less than a year from the start of the current tenancy on 29th March 2004

it failed to give adequate notice.

- 3 it omitted to advise the tenant that if he wished to challenge the rent, (a) he would have to apply to a rent assessment committee, (b) the application would have to be made by the date the increase was proposed to take effect and (c) that an application would have to be made on a form headed *Application referring a Notice proposing a new rent under an Assured Periodic Tenancy or Agricultural Occupancy* that could be obtained from either a rent assessment panel or law stationer.

- 4 Furthermore, the advice contained in the letter referred to at paragraph 2.3 above clearly indicated that the letter was not intended as a Notice and that a formal Notice may follow 'within the next few weeks'.

4.3 Accordingly, the Committee found that the Landlord's letter of 28th March 2005 did not constitute a valid Notice of Rent Increase for the purpose of S.13(2) of the Housing Act 1988 as it was not in accordance with the prescribed form (Form 4B) of the Regulatory Reform (Assured Periodic Tenancies) (Rent Increases) Order 2003 or terms substantially to the like effect and therefore invalid.

- 4.4 The Rent Assessment Committee determine that it has no jurisdiction to determine the rent for the reasons given.



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I.D. Humphries B.Sc.(Est.Man.) FRICS

Chairman

27th April 2005