

SOUTHERN RENT ASSESSMENT PANEL AND TRIBUNAL

CASE No: CHI/24UB/MNR/2006/0099

B E T W E E N :-

LUKE CUSICK

APPLICANT

AND

ACORN MANAGEMENT SERVICES

RESPONDENT

PREMISES: 8 GILES COURT TADLEY HAMPSHIRE

**COMMITTEE: MR D AGNEW LLB LLM (Chairman)
MR J H S PRESTON JP FRICS**

ORDER AND REASONS

1. The Committee determines that the Applicant's Application referring a notice proposing a new rent in respect of 8 Giles Court, Tadley, Hampshire RG26 3LR ("the Premises") may not proceed as the Committee has no jurisdiction to deal with the case, the reference to the Committee being out of time.
2. **Background**
 - 2.1 On 20th June 2006 the Landlord via its managing agents served on the Respondent a notice under Section 13(2) of the Housing Act 1988 proposing a new rent of £450.00 per month for the Premises with effect from 1st August 2006. The rent had previously been £350.00 per month.
 - 2.2 The Applicant objected to the increase and contacted Basingstoke and Deane Borough Council with a view to seeking advice as to where to make his objection. The Council put him in touch with the Rent Office in Southampton. They deal with Council tenancies only but assisted the

Applicant by forwarding to him the prescribed form to refer the matter to the Rent Assessment Committee.

- 2.3 The notes on the reverse of the landlord's Section 13 notice state: "To refer the notice to the local Rent Assessment Committee you must use the form "Application Referring a Notice Proposing New Rent under Assured Periodic Tenancy or Agricultural Occupancy to a Rent Assessment Committee". You can obtain this from a Rent Assessment Panel, Housing Advice Centre or Legal Stationer (Oyez form H434) (details can be found in the telephone directory).
- 2.4 Note 3 states: "If you do not accept the proposed new rent, and do not wish to discuss it with your landlord, you can refer this notice to your local Rent Assessment Committee". Then in bold type it says: "You must do this before the starting date of the proposed new rent in paragraph 4 of the notice".
- 2.5 The Applicant accepts that these notes were printed on the reverse side of the notice he received.
- 2.6 Unfortunately for the Applicant, instead of submitting the form to a Rent Assessment Committee, he sent it to the local Council. The Council, after a delay, returned the form to the Applicant with, says the Applicant, simply a compliments slip. When after a time the Applicant heard nothing further from the Council he contacted them and was told that the matter was nothing to do with them. They suggested he contact the Inland Revenue. Realising that this was unlikely to be correct the Applicant sought advice from the Citizens' Advice Bureau and was advised of the correct place to forward his form.
- 2.7 By this time it was 9th August 2006. Realising this was after the date specified in the Landlord's notice for the commencement date of the new rent the Applicant asked that the committee consider sympathetically his application to allow the reference to the committee to proceed notwithstanding that it was out of time. His letter and application form were received in the Tribunal office on 14th August 2006.

3. Hearing

3.1 A hearing was fixed for the Committee to consider the Applicant's request on 3rd October 2006. The Applicant appeared at the hearing as did the Landlord, who was in fact Mr Michael West (not Acorn Management Services as appears in the heading to this case) and Mr Richard Smith of Acorn Management Services (the Landlord's agent).

3.2 At the hearing the Applicant reiterated the facts outlined above and asked the Committee to exercise its discretion to allow his application to proceed in all the circumstances.

3.3 Mr Smith considered that it was a matter for the Committee to decide as to whether or not to grant the Applicant's request but wanted to point out that they had been trying to increase the rent for some time, that the Applicant was persistently in arrears with his rent and that the rent sought of £450.00 per month was still well below the rents of comparable properties in the same block.

4. The Determination

4.1 The Committee did not consider that any of the points mentioned by the Respondent's agent set out above were relevant as to whether or not the application would be allowed to proceed, it having been submitted out of time. However, whilst sympathising with the Applicant as to the reasons for the late submission of the application, the Committee decided that nowhere in the legislation governing the regulation of rents for Assured periodic tenancies was there any provision which gave the Committee jurisdiction to waive the requirements of the Act.

4.2 In that respect the Housing Act 1988 was quite specific. Section 13 (4) of the Act states that a Rent Assessment Committee can determine an appropriate rent for premises let on assured periodic tenancies when a landlord's notice of increase is received in the prescribed form where

the tenant refers the matter to the Committee before the date upon which the increase is to take effect, according to the notice.

4.3 In this case the application referring the notice proposing a new rent was not received by the Rent Assessment Committee before the date of the proposed increase and therefore the Committee has no jurisdiction to deal with the matter.

4.4 The Applicant accepts that the notices on the reverse of the prescribed form are clear, although no address is given for the local Rent Assessment Committee. It is unfortunate for the Applicant that in this instance he did not take proper advice in time but the Committee has no option but to disallow his application from proceeding further.

Dated this 11th day of October 2006



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D Agnew LLM
Chairman