

Y TRIBIWNLYS EIDDO PRESWYL
RESIDENTIAL PROPERTY TRIBUNAL (WALES)

REFERENCE: RPT/0073/03/19

In the matter of an Application under Section 27 Housing (Wales) Act 2014.

APPLICANT: ANDREW LUNN

RESPONDENT: RENT SMART WALES

Decision – Application to Appeal Out of Time

The Tribunal allows the appeal to proceed.

REASONS FOR THE TRIBUNAL’S DECISION

Background

1. By way of a letter dated the 30th January 2019 Rent Smart Wales granted the Applicant a Licence under the Housing (Wales) Act 2014 (“the Act”). Condition 6 of the licence states that if the licensor resides in England Wales or Scotland but is more than 200 miles from the licensed property the licensor must appoint a Rent Smart Wales approved local Agent. The letter informed the Applicant of the ability to submit an appeal within 28 days of the date of that letter. Such an appeal is to be made to the Residential Property Tribunal. In the circumstances the deadline for an Application for an Appeal was the 27th February 2019. Mr Lunn’s Application was received by the Tribunal Office on the 11th March 2019.
2. As the Application was out of time a direction was made that the Applicant file with the Tribunal Office by 12 noon on the 15th April 2019 a request in writing to extend the time for making such an Application under the Act, such a request to be in the format of a Statement providing:
 - (1) Reasons for the failure to make the Application in time;
 - (2) The reason for any delays since then.
3. Mr Lunn sent an email at 11:42 on the 15th April 2019 enclosing a Statement and a scanned copy of the last page of the Statement duly signed dated the 15th April 2019 at 11.30. Mr Lunn in that Statement states as follows:
 - (1) He was not aware the licence was granted on the 30th January 2019.
 - (2) The only documentation sent to him he asserts was an undated letter which arrived mid-February;
 - (3) His initial application was made on the 24th November 2018. He was informed by Luke Morgan of Rent Smart Wales that the Application had been escalated to which Mr Lunn assumed it would be decided within the usual 8 week period which would have expired on the 19th January 2019.
 - (4) His view is that the Application was delayed “through shoddy work on Rent Smart Wales’ part” and duplicate questioning and information being supplied.

4. In relation to the issue of any delay since then Mr Lunn says he is not aware of any delay and further asserts “*And this Application (sic) will be submitted within the prescribed timescale*”. The Tribunal takes that reference to mean the information to support the Application to Appeal out of Time.
5. By way of this decision I am solely concerned with the Application to Appeal out of Time and not any other consideration.

The Law

6. Section 27(4) of the Act states that:
“*The Tribunal may allow an appeal to be made to it after the end of the appeal period if it is satisfied that there is a good reason for the failure to appeal before the end of that period (and for any delay in applying for permission to appeal out of time)*”.
7. In addition Regulation 4 of the Residential Property Tribunal Procedures and Fees (Wales) Regulations 2016 deals with requests for extensions of time to make an Application. The Regulation further adds that any request must be in writing and give reasons for the failure to make the Application before the end of the period and for any delay since then, to include a Statement that the person making the request believes that the facts stated in it are true and is to be dated and signed. In addition the Applicant making such a request must at the same time send the completed Application Form to the Tribunal. As referred to above Mr Lunn has already sent the Application Form duly signed with a Statement of Truth and by way of his email at 11.42 on the 15th April he provides his reasons for the delay, those reasons supported by a Statement of Truth.
8. Furthermore, Regulation 3 of the Residential Property Tribunal Procedures and Fees (Wales) Regulations 2016 relates to the overriding objective of the Tribunal. When exercising any power under the Regulations or interpreting any Regulation the Tribunal must:
“*Seek to give effect to the overriding objective of dealing fairly and justly with Applications which it is to determine*”.
9. Further, guidance is given in Regulation 3(2) in relation to dealing with an Application fairly and justly including:
“*2a Dealing with it in ways which are proportionate to the complexity of the issues and to the resources of the parties;*
b Ensuring, so far as practicable that the parties are on an equal footing procedurally and are able to participate fully in the proceedings”.


Decision

10. Mr Lunn’s case is that it was only in mid-February he became aware the licence had been granted on the 30th January 2019 and he immediately took steps to lodge an Appeal which was received by the Tribunal Office on the 11th March 2019. With reference to the date the licence was granted being the 30th January 2019 Mr Lunn’s Application to Appeal received on the 11th March 2019 was some (excluding the day of receipt of the Application) 12 days out of time.
11. This Application is dealt with on paper and accordingly no oral evidence will be heard to test the reasons given by Mr Lunn in relation to the Application being made out of time. Bearing in mind the Tribunal’s duty to consider the overriding objective to deal

fairly and justly with applications upon Mr Lunn's case he submitted the Appeal as soon as he was alerted to the decision of Rent Smart Wales in relation to issuing the licence upon the conditions and more specifically the condition which he seeks to appeal. In addition I remind myself that on any view the delay was only some 11 days. Bearing all these matters in mind and the importance to Mr Lunn of being able to put his case in relation to the licence condition he appeals and conversely of course for Rent Smart Wales to respond, upon balance I allow the Appeal to proceed out of time based upon the reasons as provided by Mr Lunn and will provide directions for the hearing of this matter in due course.

12. In considering this matter I confirm that I have dealt with the procedural application. No consideration has been given to the substantive Appeal to Vary the Licence Conditions which will be a decision to be taken in due course by a fully constituted Tribunal.

Dated this 24th day of April 2019

A handwritten signature in black ink, appearing to read 'R. Lloyd', with a horizontal line underneath the name.

Chairman