

**Y TRIBIWNLYS EIDDO PRESWYL**  
**RESIDENTIAL PROPERTY TRIBUNAL (WALES)**

Reference: RPT/0026/11/19  
Applicant: Mrs Karen White  
Respondent: Rent Smart Wales

In the Matter of an Application under Section 25 of the Housing (Wales) Act 2014

Tribunal: Trefor Lloyd - Legal Chair  
Neil Martindale FRICS - Surveyor Member  
Hywel Eifion Jones - Lay Member

**ORDER AND REASONS FOR THE DECISION OF THE TRIBUNAL**

The appeal against the revocation of the licence is dismissed.

**REASONS**

**BACKGROUND**

1. The Applicant was granted a Landlord Licence under Section 21 of the Housing (Wales) Act 2014 by the Respondent Rent Smart Wales ("RSW") on the 20<sup>th</sup> March 2018. A copy of the Licence can be found at Tab 2 of the Hearing Bundle. The Licence contained a number of conditions. Despite the ability for the Applicant to challenge the conditions upon being awarded a Licence for whatever reason, she chose not to do so.
2. On the 13<sup>th</sup> March 2019 RSW received notification from Wrexham County Borough Council of the prosecution of the Applicant for failure to comply with an Improvement Notice relating to her rented property 31 Henry Street, Wrexham. A copy of the Improvement Notice can be found behind Tab 3 of the Hearing Bundle.
3. The Improvement Notice dated the 14<sup>th</sup> February 2018 required the Applicant by way of Schedule 1, which referred to category 1 hazards, to provide a heating system so as to eliminate excessive cold, and also to insulate the cavity walls and loft together with providing double glazed units to all windows.

In addition, the Improvement Notice by way of Schedule 2 refers to category 2 hazards, which in the main are maintenance issues.

4. The Improvement Notice required the work to be commenced by the 15<sup>th</sup> March 2018 and completed by the 30<sup>th</sup> May 2018 and also notified the Applicant (as is usual in the case) if she did not agree with the Notice she could appeal to this Tribunal, such an appeal to be made within 21 days of the service of the Improvement Notice. No such appeal was ever instigated.
5. At the Magistrates Court Hearing on the 31<sup>st</sup> January 2019 the Applicant entered a guilty plea and was fined £1,925 together with costs of £200 and a victim surcharge of £170.
6. As a result of RSW being informed of the prosecution a Breach of Licence investigation was completed. As a consequence it is the Respondent's case that the Applicant had breached two conditions namely:
  - (1) **Condition 3 of the Licence** - of having to have regard to the Housing, Health and Safety Rating System ("HHSRS") to ensure that any tenant within their rental properties are not at risk of harm from any housing hazards within the dwelling.
  - (2) **Condition 11 convictions** - the Licence being granted on the condition that at the time of grant the Applicant was considered a fit and proper person. However, Condition 11 also required notification to RSW within 14 days of being convicted of an offence.
7. On the 18<sup>th</sup> March 2019 a further review was completed and Wrexham County Borough Council were invited to make any observation or recommendation. The Authority felt that the Applicant was not a fit and proper person for the following reasons:
  - (1) Following a complaint, an inspection of the property was carried out, resulting in a Schedule of Works and Improvement Notice being issued.
  - (2) Neither were complied with.
  - (3) Enforcement action was taken as a consequence and the Applicant successfully prosecuted and fined.
8. As a result Rent Smart Wales invoked the procedure to deal with a potential revocation of the Licence being namely:
  - (1) Initially a proposal to revoke letter was sent out (copy at Tab 5 to the Bundle) inviting representations within 21 days from the 13<sup>th</sup> June 2019.

- (2) RSW completed their review on the 9<sup>th</sup> September 2019 and discovered that no representation had been made by the Applicant. Of even date information was received from Wrexham County Borough Council that a Notice of Intention to carry out work in default without permission had been served.
9. The Applicant contacted RSW on the 20<sup>th</sup> September 2019 to enquire about the status of her Landlord Licence and was informed that she was still licensed, but again made no representations.
10. On the 11<sup>th</sup> October 2019 RSW completed a case review and a decision made which is documented in the Officer Decision Report at Tab 6 to revoke the Licence.
11. The Applicant was notified of the revocation on the 11<sup>th</sup> October 2019.
12. On the 25<sup>th</sup> October 2019 the Applicant made contact with RSW via its contact centre stating that she was in the process of attempting to evict the tenants in order to undertake the property repairs, and was told that she needed to appeal to this Tribunal within 28 days if she wished to appeal the revocation.
13. The Applicant duly appealed to this Tribunal and directions were laid down to progress to a hearing.
14. On the 6<sup>th</sup> December 2019 RSW was told by Wrexham County Borough Council that the tenants had been re-housed. The Applicant was claiming a lack of finance to complete the works, but as the tenants had vacated the Authority withdrew its Notice of Intended Works, and served a Prohibition Notice. None of these Notices have been appealed.

### **THE APPLICANT'S CASE**

15. Save as for a handwritten three page letter the Applicant has not (despite directions to that effect) filed and served any evidence in support of her appeal. The undated letter received at the Tribunal Office on the 31<sup>st</sup> October 2019 sets out the following as the Applicant's case:
  - (1) Working closely with Wrexham County Borough Council.
  - (2) A Section 21 Notice had been served on the tenants for repossession, and thereafter possession proceedings have been instigated.
  - (3) An application has been made for funding from Wrexham County Borough Council to carry out the works. One of the conditions of the funding is that the Applicant has in place a Landlord's Licence.

- (4) A Further reason for the need of a Licence is that the Applicant could not obtain a Possession Order without evidence of being licensed as a Landlord.

## **THE RESPONDENT'S CASE**

16. The Respondent relies upon the Witness Statement of Mr Stuart Moon, Senior Housing surveyor which is accompanied by 11 appendices. The first appendix being a Skeleton Argument which sets out the nature of the Respondent's case.
17. In summary the Respondent's case is that the Applicant has demonstrated a failure to abide by the terms of her Licence and essentially breached condition 3 and condition 11 (as referred to above). Despite what the Applicant asserts she has not engaged with Wrexham County Borough Council.
18. Having carried out a detailed review the decision to revoke the Licence was the correct approach and the failure on the part of the Applicant to engage once the revocation letter had been sent, is further testimony of the Applicant's inability to cooperate with due process.

## **THE LAW**

19. RSW sets out the applicable legislation behind Tab 1 at pages 4 to 6 of its Skeleton Argument. In summary Section 25 of the Housing (Wales) 2014 provides that:
  - (1) A Licensing Authority may revoke a Licence if -
    - (a) The Licence Holder has breached a condition of the Licence;
    - (b) The Authority is no longer satisfied the Licence Holder is a fit and proper person to hold a Licence.
  - (2) But before revoking a Licence the Licensing Authority must -
    - (a) Notify the Licence Holder of its intention to revoke the Licence and the reasons for this, and
    - (b) Consider any representations made by the Licence Holder before the end of the period of the 21 days beginning with the date the Licence Holder was notified.
  - (3) After revoking a Licence the Licensing Authority must notify the Licence Holder

- (a) Of the revocation and the reasons for it,
- (b) Of the Licence Holder's right of appeal (see Section 27).

20. In turn Section 27 deals with the Appeals process and of relevance to this Tribunal is sub-section 5 which sets out as follows:

*"The Tribunal may confirm the decision of the Licensing Authority or alternatively*

*(b) In the case of a decision to revoke a Licence to quash that decision".*

## **THE HEARING**

- 21. All parties were informed of the hearing to take place at Room G29 of the Catrin Finch Centre, Glyndwr University, Wrexham on the 26<sup>th</sup> February 2020 at 10.30 am.
- 22. Due to an incident on the A55 both the Legal Chair and Lay Member were delayed and eventually the hearing was convened at 11 am rather than 1030 am. The Applicant did not attend. Mr Stuart Moon, Senior Housing Surveyor appeared as a witness on behalf of RSW and Mrs Bethan Jones Operational Manager Rent Smart Wales ("Mrs Jones") presented the case on behalf of RSW.
- 23. At the outset Mrs Jones informed the Tribunal that she had spoken to the Applicant on the 25<sup>th</sup> February 2020. During that conversation the Applicant initially said that she thought the hearing was scheduled for Thursday 27<sup>th</sup> February 2020. Mrs Jones informed the Applicant that was not the case, and they had a further discussion in relation to the Licence and the ability or otherwise to fund works to the property by way of assistance from Wrexham County Borough Council in the absence of a Landlord Licence. The reason for that element of the conversation being that Mrs Jones had been informed by Wrexham County Borough Council that as long as the Applicant was registered as a landlord she would still be entitled to the funding as having a Landlord Licence in her own name was not a prerequisite of the same. Although Mrs Jones could not be sure, her view was that as a result of that information being forwarded to the Applicant she decided not to proceed to attend the hearing.
- 24. Thereafter, Mrs Jones briefly opened the case explaining to the Tribunal the procedural element of a revocation of a Notice being as follows:
  - (1) Notification of an intention to revoke;
  - (2) Consideration of representations made by the Licence Holder; and

- (3) Formal notification if a revocation is determined appropriate together with details of the appeal mechanism.
25. Mrs Jones then went through the chronology which we have set out above in this decision, and do not propose to repeat once more.
26. The Tribunal then briefly heard from Mr Stuart Moon who confirmed that his Witness Statement was true to the best of his knowledge and belief, and also that he in coming to his decision had relied upon the information contained within the relevant appendices.
27. Mrs Jones then by way of closing submissions submitted that:
  - (1) The Landlord Licence properly included conditions.
  - (2) The Applicant had failed to meet the relevant conditions.
  - (3) RSW had followed the correct procedure and reasoning and properly came to the conclusion that in this specific case the Licence should be revoked.

## **DECISION**

28. For whatever reason the Applicant decided not to file and serve any evidence in support of her appeal. Therefore, this Tribunal is limited to the information contained within the Application Form and the undated letter received with the same.
29. Conversely RSW has provided detailed information which in the absence of the Applicant was unchallenged by way of cross-examination.
30. Having considered the matter carefully including all the written material, also the opening statements made on behalf of RSW, the brief oral evidence of Mr Stuart Moon, and more specifically his detailed Officer's Report and consideration we find the following as facts:
  - (1) The Applicant has clearly breached conditions 3 and 11 of her Licence.
  - (2) The evidence demonstrates an inability on her part to comply with formal Notices and requirements.

31. In the circumstances this Tribunal upholds RSW's decision to revoke the Licence and the appeal is dismissed.

Dated this 10<sup>th</sup> day of March 2020

A handwritten signature in black ink, appearing to read 'M. H. H. H.', written over a horizontal line.

Chairman