

Y TRIBIWNLYS EIDDO PRESWYL  
RESIDENTIAL PROPERTY TRIBUNAL

Reference: RPT/0003/06/20

In the Matter of: Nicholas Michael Estate Agents

In the Matter of an Application under the Housing (Wales) Act 2014 to Revoke a Licence.

APPLICANT: Nicholas Michael Estate Agents

RESPONDENT: Rent Smart Wales

TRIBUNAL AVS Scott Chair  
Anna Harrison Surveyor  
Angie Ash Lay

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

The appeal against the revocation of the licence is dismissed and the Respondent's decision on 9 March 2020 to revoke the licence issued to Nicholas Michael Estate Agents (NMEA) on 30 March 2017 is confirmed.

**BACKGROUND**

1. The Applicant, NMEA, applied for a corporate body licence on 12 December 2016 and this was granted on 30 March 2017 subject to a number of conditions, one of which was that the licensee must have and maintain throughout the period of their licence Client Money Protection (CMP) (and professional indemnity insurance, a complaints procedure and a number of other matters which are not the subject of this appeal). The person who made the application on behalf of NMEA was Mr Timothy Davies, who left NMEA at the beginning of 2018.
2. Mr Nicholas Davies, a partner in NMEA, took over responsibility for the licence but he was unaware of the conditions attached. As soon as he was made aware of these by RSW on 1 March 2019, he took steps to comply with the conditions. In respect of CMP, Mr Davies told RSW in a letter dated 14 March 2019 that this "forms part of other insurance necessities we have relating to other insurance obligations and disciplines within our practice and is currently with our insurance brokers." He asked for further time. RSW agreed an extension of time of 14 days.
3. On 20 September 2019, RSW wrote to NMEA giving formal notice of its intention to revoke NMEA's licence for breach of condition 2 of the licence (i.e. the condition relating to CMP). In response, Mr Davies said in his letter dated 8 October 2019 that they were working with their brokers to set up CMP but that the insurance industry

was proving to be awkward. They were also applying for membership of UKALA (i.e. the UK Association of Letting Agents) in the hope that they could join the CMP available to its members. He asked for further time.

4. On 9 March 2020, RSW formally revoked NMEA's licence for breach of condition 2. In a further letter dated 19 March 2020, Mr Davies said that an application was with Client Money Protect, one of the providers of client money protection. On 25 March 2020, Client Money Protect informed NMEA that it did not meet the criteria required for CMP's scoring process and referred NMEA to their credit reference agency, Equifax in case NMEA wished to discuss data Equifax held about NMEA. On 9 April 2020, RSW wrote to NMEA giving details of appeal rights. NMEA appealed out of time on 30 April 2020 (and also asked for further time to put in place CMP). The late appeal was accepted.

#### THE HEARING

5. Both NMEA and RSW prepared written submissions and attended a remote hearing to give evidence and make submissions.
6. Mr. Davies told the Tribunal the only application he had made for CMP was to Client Money Protect itself. He was concerned that if applications were made to other organisations, these would be rejected for the same reason Client Money Protect had rejected his application and instead NMEA's accountants were finalising accounts for 2019/2020 which, Mr Davies hoped, would put NMEA in a better position as regards its credit rating. He had also been in discussion with ARPM (the Tribunal believe this refers to Ash Residential Property Management) who, it was intended, would take over the finance side of things but it transpired ARPM also required NMEA to have their own CMP in place. He fully accepted that NMEA did not have CMP in place. He was not able to say when it might be.

#### THE LAW

7. Section 22 of the Housing (Wales) Act (the Act) provides that a licensing authority may grant a licence subject to such further conditions as it considers appropriate. Section 25 of the Act provides:  
"A licensing authority may revoke a licence if:  
(a) the licence holder has breached a condition of the licence".
8. Section 25(2) provides that before revoking a licence, a licensing authority must notify the licence holder of its intention to revoke the licence and the reasons for this and consider any representations made by the licence holder within 21 days from the date the licence holder was notified.
9. Section 25 (4) provides that after revoking a licence, the licensing authority must notify the licence holder of the revocation and the reasons for it and of the licence holder's right of appeal.

## TRIBUNAL'S DECISION

10. Mr Davies accepted in evidence to the Tribunal that NMEA did not have CMP, a condition of the licence. NMEA were in breach of this condition and RSW was entitled, under Section 25 of the Act, to revoke the licence. RSW had followed the statutory procedure set out in Section 25(2) correctly in giving notice of intention to revoke the licence, considering written representations from the licence holder and, following revocation, giving the licence holder notice of appeal rights. It did not appear that NMEA would be in a position in the near future to comply with the condition. The licence holder had been in breach of a condition of the licence (to have CMP in place) since its issuance in March 2017.
11. Mr. Davies complained that RSW had taken no action for 2 years in relation to the conditions of the licence and that his business had been shut down for 4 months due to Covid-19. However, these matters were not something which the Tribunal could take into account in considering the Appeal. The issue was whether RSW was entitled to revoke the licence due to there being a breach of a condition of the licence. Plainly, NMEA were in breach of the condition relating to CMP and RSW was entitled to revoke the licence on those grounds. The Tribunal could find no grounds for interfering with the decision of RSW.

Dated this 22<sup>nd</sup> day of October 2020

A Scott  
Chair