

Y TRIBIWNLYS EIDDO PRESWL
RESIDENTIAL PROPERTY TRIBUNAL
RENT ASSESSMENT COMMITTEE

Reference: RAC/0012/01/21

In the matter of 16 Kinnard Drive, Rhyl, LL18 3EF

And in the matter of an Application under section 13(4) of the Housing Act 1988

Applicants: Mr. and Mrs. Ockendon - White

Respondent: Home Let North Wales

Tribunal: Andrew Grant (Chairman)
Tom Daulby (Surveyor)

Decision

The Tribunal determines that at the date of the hearing it did not have jurisdiction to determine the Application. Accordingly, The Application is dismissed.

Reasons

1. This is an application by Mr. James Ockenden - White and his wife, Mrs. Lynda Mary Ockenden – White (“the Applicants”) who were previously the tenants of the property known as and situate at 16 Kinnard Drive, Rhyl, LL18 3EF (“the Property”).
2. The Applicants occupied the Property pursuant to the terms of an Assured Shorthold Tenancy agreement which commenced on the 23rd September 2017. The original term was for a period of 6 months which has now expired but the Applicants had remained in occupation under the terms of a statutory periodic tenancy.
3. By their application, the Applicants sought to challenge the notice of increase of the rent which was served upon them by the Respondent on the 13th January 2021, which proposed an increase to the rent from £695 to £750 per calendar month with such increase to take effect from the 23rd February 2021.
4. The application was dated the 18th January 2021. Directions were issued on the 16th February 2021. In compliance with those directions, the Applicant filed and served its evidence in the

form of a statement from Mrs. Ockenden – White. The Respondent filed and served its evidence which took the form of a statement from Mr. Alex Clarke of the Respondent company and which was dated the 16th February 2021.

5. The matter was listed for a determination on the 17th May 2021. The hearing took place remotely on the CVP platform.

Preliminary matters

6. Prior to the hearing the Applicant had sent an e mail to the Tribunal dated the 26th April 2021, indicating that they proposed to vacate the Property by the 30th April 2021.
7. Subsequently, on the 12th May 2021, the Respondent sent an e mail to the Tribunal indicating that the keys to the Property had been returned by the Applicants on the 5th May 2021 and that they had subsequently vacated the Property, which was now empty. It asked if there was any need for the hearing to proceed in those circumstances.
8. The Tribunal notified the Respondent that the hearing was to proceed on the allocated date.

The hearing

9. There was no attendance by the Applicants. The Respondent was represented by Mr. Clarke.

The submissions

10. Mr. Clarke submitted that the keys had now been returned to the Respondent and the property had been cleared of the Applicants belongings and was now empty. He said that in those circumstances he could not see the point of the current proceedings.

Deliberations

11. The Tribunal decided to reach a determination on the preliminary issue as to whether there remained any tenancy in existence, as this seemed to be essential to the Tribunal's continued jurisdiction in reaching a determination on the appropriate rent for the Property.
12. Section 13 applies to those tenancies which are set out at section 13 (1), (a) and (b), of the Housing Act 1988.
13. It is clear that at the date of the application the Tribunal had jurisdiction to determine the matter. However, by the date of the hearing the position was less clear as circumstances seemed to have changed.
14. The evidence indicated that the Applicant had previously written to the Tribunal indicating that they would be vacating the Property on the 30th April 2021.

15. Mr. Clarke gave evidence that the Applicant had returned the keys to the Property on the 5th May 2021
16. The Tribunal had inspected the Property on the morning of the 17th May 2021. It had been given access by the Respondent. The Applicant was not present. The Property was empty.
17. The Applicant had not attended the hearing.
18. In the circumstances, and having regard to the above factors, the Tribunal was satisfied that on a balance of probability the tenancy had been surrendered and the Applicants were no longer in occupation. There was no longer any tenancy in existence in respect of the Property at the date of the hearing.
19. That being the case, the Tribunal determined that it no longer had Jurisdiction to determine the market rent for the Property.

Decision

20. Accordingly, the Application is dismissed.

Dated this 1st day of June 2021.

A handwritten signature in black ink, appearing to read 'A Grant', with a large, sweeping flourish extending to the right.

A Grant
Chairman