

**Y TRIBIWNLYS EIDDO PRESWYL  
RESIDENTIAL PROPERTY TRIBUNAL (WALES)  
RENT ASSESSMENT COMMITTEE**

**Reference:** RAC/0011/01/21

**In the Matter of:** Erw Dominus, Caio, Llanwrda, Carmarthenshire, SA19 8PR.

**Application:** Section 13(4) of the *Housing Act 1988* (as amended)

**The Committee:** Chairman : Dr. J. Rostron  
Valuer Member : P. Tompkinson FRICS

**Applicant:** Sharon Homans

**Respondent:** Leslie D. Laine

**BACKGROUND**

1. We were duly convened as a Rent Assessment Committee under the provisions of the *Housing Act 1988* (the “Act”) by means of video conferencing because of the COVID-19 Pandemic on the 21 May 2021. The Application before us was reference of a Notice proposing a new rent under an assured periodic tenancy. On the 16<sup>th</sup> December 2020 the Respondent [Landlord], Leslie D. Laine. had served a Notice proposing a new rent of £130.95 per week in place of the existing rent of £75.00 per week. The rent applied was in respect of (the “Property”) Erw Dominus, Caio, Llanwrda, Carmarthenshire, SA19 8PR. It was proposed that the starting date for the new rent would be the 3<sup>rd</sup> February 2021. The Notice was the third of three Notices. Prior ones being dated 11<sup>th</sup> and 14<sup>th</sup> December 2020 but withdrawn by the Respondent. The Applicant [Tenant], Sharon Homans objected to the increase and gave notice of application dated 15<sup>th</sup> January 2021.

**THE LAW**

2. Section 13(2) of the Act requires a Landlord seeking to increase the rent of an assured periodic tenancy to serve on the Tenant a Notice in the prescribed form proposing a new rent to take effect at the beginning of a new period of the tenancy.
3. For the Notice to be valid it must comply with various requirements set out in Section 13(2) of the Act as amended by the *Regulatory Reform (Assured Periodic Tenancies) (Rent Increases) Order 2003*.
4. If the Notice is valid, Section 14 of the Act requires the Committee to determine the rent at which it considers the Property might reasonably be let in the open market by a willing Landlord under an assured tenancy and in so doing the Committee must disregard the effect on the rental value of any relevant Tenants improvements.
5. Section 13(2) of the Act confirms (amongst other things) the start date for the proposed new rent must not be earlier than  
“(c) if the rent under the tenancy has previously been increased .....  
(ii) .... the appropriate date”

6. The appropriate date is defined as being a minimum of 52 weeks after any previous rent increase. It also requires the new rent to start at the beginning of a new period.
7. Section 14 (2)(a) of the Act states that in making its determination the Committee shall disregard any effect on the rent attributable to the granting of the tenancy to a sitting tenant.

## INSPECTION

8. The valuer member of the Committee undertook an inspection both internally and externally on 21<sup>st</sup> May 2021. This was undertaken by a single valuer rather than full Committee because of the COVID 19 issues. The Property is a detached stone-built cottage with a dual pitched slate roof with side appendage and shed. Located in a remote rural location, the Property is accessed by a metalled road maintained by the Local Authority. Parking is limited to one vehicle. The Property has a terraced front garden and small lawned area to the rear. The accommodation comprises; entrance porch into living room with corridor off to kitchen and ground floor bedroom and shower room. A stair leads to an open plan 'croc loft' forming first floor accommodation providing a further bedroom area. The Property was noted to be in a poor state of repair both internally and externally largely in line with the Applicant's description. Rainwater goods were not adequately functioning, there was evidence of wet rot to windows and external doors, wood boring beetle was noted to be active in the roof timbers which are exposed to the first-floor bedroom areas. The Property does not have efficient glazing and it was otherwise thermally inefficient. The heating system is rudimentary with radiators run from an old Rayburn which appeared to be improperly installed in the kitchen and a log burner in the living room. Both appliances are considered to be inefficient. The Property periodically floods internally after periods of heavy rain so floor finishes and furnishings are either non-existent or suffer from water damage, are rusting or rotting. There was widespread evidence of rising and penetrating dampness through the ground floors and external walls. The open market rental value if in good condition was considered to be £110 - £120 per week. However, because of the poor state of repair and especially the periodic flooding it was considered the Property would be very difficult to let until further flooding is prevented and the heating and cooking installations are upgraded and certified. In these circumstances it is considered the current rent £75 per week is appropriate.

## EVIDENCE

9. The Applicants written submission consisted of the application form which states the Property consists of two bedrooms, bathroom/toilet. Kitchen and lounge. There are front and rear gardens, and shed. The improvements carried by the Tenant or previous Tenant includes; installed multi fuel burner and radiators under the Nest Scheme; installed new toilet and hand basin; purchase of fire bricks and repair of Rayburn in kitchen; renewal of electric plug sockets; repair of burst pipes; painting of external doors and windows, internal painting and repair of rotting rear door. Comparable properties at; 32 Jones Terrace, Glanamman, Ammanford, Dyfed, SA18 2AH; Carreg Sawdde, Llangagog, Carmarthenshire. King Street, Carmarthen, Carmarthenshire, SA31 1BA are provided to assist the Committee in determining a new rent. An energy performance certificate, invoices for works, and extensive photographs of various aspects of the Property are also provided.
10. The Applicant's application form is supplemented by a further submission dated 1<sup>st</sup> May 2021 by Counsel Rachel Anthony which deals with the validity of the Landlords Notice and standing under the *Housing (Wales) Act 2014*. The submission states that the Landlord's Notice dated 16<sup>th</sup> December 2020 is invalid because the Landlord was in breach of Section 7 of the *Housing*

(Wales) Act 2014 because Landlord was neither registered or licenced. The statement says the Landlord became registered on 20<sup>th</sup> December 2020 and licenced on 21<sup>st</sup> December 2020. Counsel provided two authorities; *Evans v. Fieri* [2019] EW Misc 12 CC and *Jarvis v. Evans* [2021] 1 WLR 24 (2020). Both of these authorities refer to section 21 of the Act and are not of direct relevance to the Committee's jurisdiction which excludes that section of the Act.

11. The submission dated 1<sup>st</sup> May 2021 explains; "that the Respondent became Landlord following the death of his father in May 2020. As such the Respondent was obliged to comply with the registration and licencing requirements of *Housing (Wales) Act 2014*. Section 7 *Housing (Wales) Act 2014* provides that the Landlord must not do any of the things specified unless the Landlord is arranged to do them, an authorised agent does them or an exception in Section 8 applies. The relevant things are: (a) collecting rent and (b) being the principal point of contact for the Tenant in relation to matters arising under the tenancy. In this matter, serving of a Notice of Rent Increase is a property management activity. The requirements of the form are fairly complex. The preparation of such a form by an unlicenced Landlord risks the Tenant being harassed by repeated service of forms containing errors. In this case three forms were served on the Applicant. Becoming licenced involves undergoing a training course. In this case service of a Notice of Rent Increase should be read as an activity requiring licencing either on the basis that service of such a Notice is part of "collecting rent" or as "being the principal point of contact for the Tenant in relation to matters arising under the tenancy". This would accord with the intention of *Housing (Wales) Act 2014*. A notice served in breach of Section 7 of the *Housing (Wales) Act 2014* is therefore not lawfully served".
12. The Respondents written submission is contained in a letter dated 16<sup>th</sup> March 2021. The salient points being: "Firstly, that the proposed rent was calculated using the retail price index figures from 1999. Secondly, that whilst not appreciating the regulatory requirements in Wales the Landlord has now undertaken the necessary training to be registered and as a Landlord. Thirdly, £1153.68 has been spent in drainage works. Fourthly, the Tenant has refused entry to allow the Landlord to undertake improvements regarding insulation and double glazing. Fifthly, the Tenant informed the Landlord that there was an informal arrangement with the previous Landlord that the rent would not be increased if the Tenant did not complain about repairs. Sixthly, the Tenant installed a new toilet and wash basin. Seventhly, a new boiler and radiators were installed under the Nest scheme. Eighthly, comparable properties are suggested at Fagwr Road, Craig-Cefn-Parc; Nantycaws; and The Street, Brecon; to assist the Committee is determining the new rent. Ninthly, a copy of the tenancy agreement dated 31 August 1999 is provided".
13. A letter and Notice under section 21 of the Act dated 20<sup>th</sup> October 2020 requiring possession of the Property is included in the Landlord's submission. This Notice is not a matter which can be considered by the Committee because it is not within its jurisdiction.
14. In a statement dated 18 May 2021 the Respondent has stated that the section 13 Notice is valid because of the exemptions regarding registration contained in section 5 of the *Housing Act (Wales) 2014* which means that the requirement under section 4(1) does not apply. Section 4 (1) (a) stating that an exemption to registration applies if the Landlord has applied to the licensing authority to be registered in relation to the dwelling and the application has not been determined. The Landlord states he applied for registration on 10<sup>th</sup> December 2020 and the licence obtained on 20<sup>th</sup> December 2020. The Landlord asserts that from 10<sup>th</sup> December 2020 until the licence was issued on 20<sup>th</sup> December 2020 his application had not been determined. The Landlords Notice of Rent Increase is dated 16<sup>th</sup> December 2020.

15. The statement dated 18<sup>th</sup> May 2021 also discusses the Landlords lack of knowledge regarding the need for registration and licencing. He asserts that this ignorance of the law followed inappropriate advice sought from his solicitors in relation to service of the section 21 Notice under the Act. The Landlord further argues that the Rent Smart Wales publicity and training is inadequate in dealing with the service of section 13 Notices under the Act.
16. On 20 May 2021 Alison Elizabeth Jones of *Shelter Cymru* submitted a witness statement on behalf of the Applicant stating that the Respondent is mistaken when suggesting that the email dated 10 December 2020 is an application to Rent Smart Wales. It argues that this was merely the first step and the Respondent then needed to make the relevant application which occurred on 20<sup>th</sup> December 2020. Because of this the Landlord is not entitled to the exemptions claimed as the section 13 Notice was served prior to the 20<sup>th</sup> December 2020.

## DECISION

17. The application to which the Committee has to make a determination is regarding section 13 (4) of the Act. For the purposes of clarification, the Committee has no jurisdiction to deal with the Landlord's proceedings under section 21 of the Act. The latter is purely mentioned in paragraph 15 above for completeness. Similarly, the Landlord's assertion that ignorance of the law in this case is a defence is not accepted as valid.
18. The starting point for the Committee when considering applications under section 13(4) of the Act is whether the Landlords Notice dated 16<sup>th</sup> December 2020 is valid. The Landlord asserts that the Notice is valid because the exemptions to section 4(1) of the *Housing (Wales) Act 2014* regarding registration of Landlords under section 5 of that Act apply. The relevant part being section 5(a) which states an exception is permitted if the Landlord has applied to the licensing authority in relation to the dwelling and the application has not been determined. The application dated 10<sup>th</sup> December 2020 to Rent Smart Wales was before determination on 20<sup>th</sup> or 21<sup>st</sup> December 2020 [the former being asserted by the Respondent and the latter by the Applicant]. It could therefore be considered on this basis that the Notice dated 16<sup>th</sup> December 2020 is valid.
19. Counsel for the Applicant argues that the Notice is invalid because section 7 of the *Housing (Wales) Act 2014* requires the Landlord to be Licensed. The Applicant asserting that at the relevant time the Landlord was not licensed and as such the Notice is invalid. However, section 8 of the *Housing (Wales) Act 2014* permits an exemption to licensing under sub-section 8 (a) which states such exemptions apply if the Landlord has applied to the licensing authority to be licensed for the period from the date of the application until it is determined. The application was made on the 10<sup>th</sup> December 2020 and Notice dated 16<sup>th</sup> December 2020. It could therefore be considered that the Notice dated 16<sup>th</sup> December 2020 is valid.
20. The witness statement dated 20 May 2021 of Alison Elizabeth Jones of Shelter Cymru mentioned in paragraph 16 above has argued that the Notice dated 16<sup>th</sup> December 2020 is invalid because the application for exemption under the *Housing (Wales) Act 2014* was made on the 20<sup>th</sup> December 2020 and not 10<sup>th</sup> December 2020. The Committee consider that the email dated 10<sup>th</sup> December 2020 is explicit in that it related to the Landlord's subsequent registration on 20<sup>th</sup> December and licencing on 21<sup>st</sup> December 2020. The Committee finds the distinction made by Ms Jones unhelpful.
21. The assured shorthold tenancy agreement dated 31<sup>st</sup> August 1999 states; "THE PREMISES ...shall be let to the Tenant from the FIRST [written in manuscript] day of SEPTEMBER [written

in manuscript] 1999...A RENT of £75 *per week* [written in manuscript] ...shall be paid in advance by the Tenant on **FIRST DAY** [written in manuscript] of each week [crossed out]/**month**. Under section 13(2) of the Act the proposed new rent must start at the beginning of a new period of the tenancy specified in the notice. The Notice of Rent Increase dated 16<sup>th</sup> December 2020 shows a start date of **3<sup>rd</sup>** February 2021. Because the proposed start date in the Notice is not the start of a new period the Committee considers the notice is invalid.

**The Committee accordingly determine that the Landlord's Notice is invalid and declines to make a determination under section 14 of the Housing Act 1988.**

DATED this 11<sup>th</sup> day of June 2021

Dr. J. Rostron  
Chairman Rent Assessment Committee.