

Y Tribiwnlys Eiddo Preswyl
Residential Property Tribunal Service (Wales)
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Reference: RPT/0029/11/19

In a matter under the Housing (Wales) Act 2014, s 27, Revocation of Licence Appeal

Appellant: Preamsaran Patel

Respondent: Rent Smart Wales

Tribunal members: Judge Shepherd Chairman
Anna Harrison Professional Member
Bill Brereton Lay Member

DECISION AND REASONS OF RESIDENTIAL PROPERTY TRIBUNAL

1. The Appellant, Mr Patel is challenging the decision by the Respondent, Rent Smart Wales to revoke his licence to practise as a landlord in Wales. The reason for the revocation was his prior convictions for offences including fraud offences which only came to light relatively recently. Mr Patel submits that despite these offences he is a fit and proper person such that he is entitled to have the benefit of a licence. It is for the tribunal to decide this matter afresh.

Background

2. On the 2nd of December 2016 the Appellant was granted an individual landlord licence for a period of five years. The Appellant had declared that he was managing five properties in Wales namely:

17 Richmond Road, Roath, Cardiff, CF24 3AQ

127 North Rd, Maindy, Cardiff CF14 3AD

56 Pen-y-Lan Road, Roath, Cardiff CF24 3PF

20 Pitman Street, Pontcanna, CF11 9DJ and

88 Cathedral Road, Pontcanna, Cardiff, CF11 9LN

3. All of these properties were in the joint ownership of the Appellant and his sister save for 127A&B North Road which is solely owned by Minal Patel.

4. In his online application for the licence the Appellant declared on the 10th of April 2016 that he had forgotten to pay for something costing about £30 at a shop some time ago. He supplied a copy of his South Wales Police charging sheet confirming that on the 18th of April 2013 he was charged with the offence of shoplifting.
5. On the 4th of September 2018 a report was received by Rent Smart Wales from the Regional Asset Recovery team at South Wales Police. This report confirmed that there had been an investigation into money laundering and suspected illegal subletting involving the Appellant. On the 26th of February 2019 Rent Smart Wales received two agent licence application submissions from the Appellant's sister and cousin. During the ongoing investigation Rent Smart Wales discovered that the Appellant had been convicted of fraud and was serving a prison sentence. The Appellant had not notified them of this. They became aware of it through their own investigations.
6. Rent Smart Wales carried out an open source Internet search and found a news article about the Appellant and an associate who had been convicted of a number of frauds which according to the news report amounted to a value of over half a million pounds. The Appellant was sentenced to four years and six months in prison and his co - defendant received a 16-month sentence. According to the news article the frauds began in 2003 when the couple, with another woman, formed a company called Woodridge Real Estate and Lettings which was a sham company used to support fraudulent mortgage applications. There followed various frauds involving property and mortgages. These included the Appellant securing a loan of £210,000 from NatWest bank to buy a property on Cathedral Road Cardiff (see above) on the basis of false information as to the occupiers.
7. It is not intended to recite the entire contents of the news article here. More important is the factual evidence of the convictions themselves which the Appellant cannot go behind. In consequence of this the focus at the hearing was largely on the question of whether the Appellant was able to mitigate and reassure the Tribunal that notwithstanding these serious offences he was now a fit and proper person and therefore his licence should not have been revoked.

The offences

8. The Tribunal adopts the list of offences identified in the Respondent's submission dated the 29th of January 2020. The Appellant did not challenge the validity of this record. In summary the offences relied upon by Rent Smart Wales in making their decision to revoke the Appellant's licence were the following-
 1. Doing acts tending and intending to pervert the course of public justice between the 30th of August 2017 and the 5th of September 2017 and the 22nd of January

2019 and the 4th of February 2019. The Appellant received a 12 month sentence for this offence on the 1st March 2019.

2. Dishonestly making a false representation to gain for one self/another or cause loss to another/expose other to risk. The sentence date was again the 1st of March 2019 and the Appellant received a 24 month imprisonment term to run consecutively.
 3. Obtaining a money transfer by deception – two offences. Appellant was again sentenced for these offences on the 1st of March 2019 when he received a 22 month sentence.
 4. Doing acts tending and intending to pervert the course of justice between the 23rd of January 2019 and the 4th of February 2019. The Appellant was again sentenced for this offence on the 1st of March 2019 and received an eight month sentence.
9. In total the Appellant was sentenced to four years and eight months for these offences.
10. Rent Smart Wales contacted Cardiff Council to determine whether they had any information about the Appellant. At that stage the local authority said there was some limited history relating to property condition complaints but no enforcement action leading to prosecution action had been taken. On the 10th of October 2018 a renewal application for an HMO licence had been received by the local authority. In the application the Appellant declared a conviction in September 2017 for perverting the course of justice in relation to a speeding offence. He was sentenced to one year in prison and served three months. In the application the Appellant said he'd completed a form incorrectly in respect of a speeding ticket. The speeding offence was on the 7th of December 2011.
11. On the 9th of April 2019 having discovered information about the Appellant's convictions Rent Smart Wales sent the Appellant a letter advising him that his licence was at risk and they were intending to revoke it as they were no longer satisfied that he was a fit and proper person to hold a licence. They received representations from the Appellant questioning the need to revoke his licence. The Appellant included character references and a Power of Attorney signed by his sister.
12. On the 5th of November 2019 Rent Smart Wales carried out a case review which detailed concerns and confirmed the decision to revoke the licence. The Appellant was in prison until the 20th October 2020. He had made his application to appeal the decision to revoke his licence on the 25th November 2019.
13. The case took considerable time to come on for hearing partly because of the ongoing pandemic and partly because the Appellant would not commit to a virtual hearing but wanted a hearing in person which was not possible. At the start of the hearing the Appellant made an application to adjourn because he said that he was under the

impression that the panel were going to appear in person when in fact the hearing was conducted on a hybrid basis. In correspondence before the hearing the Appellant wanted assurance that he could attend the Tribunal in person. The Tribunal facilitated this but at the same time told him that everybody else would be appearing virtually. The Appellant's oral application to adjourn was dismissed prior to the hearing. There was no real basis for an adjournment. The Tribunal considered that the Appellant would receive a fair hearing notwithstanding the fact that he was the only person actually in the hearing room and all other parties would be attending virtually. In fact the Appellant appeared satisfied with the hearing once it had taken place. He was able to put forward all of his arguments and submissions and all of these were considered by the Tribunal. He was able to ask questions of Rent Smart Wales notwithstanding the fact that their representatives were not in the same room as him.

The law

14. Housing (Wales) Act 2014

20. — Fit and proper person requirement

(1) In deciding whether a person is a fit and proper person to be licensed as required by [section 19\(2\)\(a\)](#), a licensing authority must have regard to all matters it considers appropriate.

(2) Among the matters to which the licensing authority must have regard is any evidence within subsections (3) to (5).

(3) Evidence is within this subsection if it shows that the person has—

(a) committed any offence involving fraud or other dishonesty, violence, firearms or drugs or any offence listed in [Schedule 3](#) to the [Sexual Offences Act 2003](#) (offences attracting notification requirements),

(b) practised unlawful discrimination or harassment on the grounds of any characteristic which is a protected characteristic under [section 4](#) of the [Equality Act 2010](#), or victimised another person contrary to that Act, in or in connection with the carrying on of any business, or

(c) contravened any provision of the law relating to housing or landlord and tenant.

(4) Evidence is within this subsection if—

(a) it shows that any other person associated or formerly associated with the person (whether on a personal, work or other basis) has done any of the things set out in subsection (3), and

(b) it appears to the licensing authority that the evidence is relevant to the question whether the person is a fit and proper person to be licensed.

(5) Evidence is within this subsection if it shows the person has previously failed to comply with a condition of a licence granted under this Part by a licensing authority.

(6) The Welsh Ministers must give guidance to licensing authorities about deciding whether a person is a fit and proper person to be licensed as required by [section 19\(2\)\(a\)](#).

(7) The Welsh Ministers may amend this section by order to vary the evidence to which a licensing authority must have regard in deciding whether a person is a fit and proper person to be licensed.

15. Section 25 of the Act allows the licensing authority to revoke a license when they are no longer satisfied that the landlord is fit and proper. The decision to revoke can be appealed to the Residential Property Tribunal under s.27 of the Act.

The hearing

16. In support of his appeal the Appellant provided written evidence in which he gave his explanation for the offences he had committed. He had pleaded guilty to some of the offences. He accepted that he had exaggerated his income and provided false wage slips in order to obtain a mortgage in 2003. This gave rise to two offences because the loan was taken in two drawdowns. He was convicted in February 2019 and given a 22 month sentence for each count to be served consecutively. He also accepted that he provided misleading PAYE information which was used to obtain a mortgage for his partner. He said that this was a victimless crime as the Building Society suffered no loss. He was given a 22 month sentence after his conviction.
17. The Appellant also accepted that he had been found guilty of perverting the course of justice in relation to a speeding offence and was convicted in 2012 and sentenced to 1 year imprisonment with 3 months served in 2017. He was also found guilty of committing an offence in 2009 of deceiving NatWest in order to obtain a loan. He complained that the trial had been prejudiced for a variety of reasons. Nonetheless he had been found guilty and could not go behind this. At the hearing he said that he was still discussing with his lawyers whether to appeal the conviction. Associated with this conviction was a conviction for Perverting the Course of Justice for which the Appellant received 8 months imprisonment.
18. At the hearing the Appellant represented himself and Emily Brownall represented Rent Smart Wales. She called evidence from Mr Moon who is the senior housing surveyor for Rent Smart Wales and deals with licence applications and specifically with the question of fitness and propriety of landlords. He went through the decision-making process that Rent Smart Wales had adopted in the present case. He stressed the fact that one of the conditions of the Appellant's licence granted in 2016 was to keep Rent Smart Wales informed of his circumstances. He had failed to declare the dishonesty offences which are relevant because they relate to mortgage fraud. He stressed the fact also that all of the offences had elements of dishonesty which was pertinent to the Appellant's role as a landlord. The Act specifically says that in determining whether a landlord is a fit and proper person, fraud offences have to be taken into account. He said that when the revocation decision was made there were no real complaints with regard to the Appellant's conduct as a landlord and the decision as to the revocation was largely based on the offences. He said that the Appellant's attempt to diminish the importance of the

offences by saying that they took place a long time ago was ineffective because in fact the offences had continued. He accepted that he had not invited the Appellant for interview. He also accepted that the Appellant had provided a number of references which showed him to be a good landlord. He said he considered the references but overall the convictions were his greatest concern.

19. In his evidence Mr Patel accepted his offences and accepted that the offences were largely dishonesty offences. He was still serving a sentence on licence and would be doing so until March 2023. He did not accept that there was a pattern of offending and said he was a responsible landlord. It was put to him that he had not declared the offences when he'd made an application for an HMO licence or to Rent Smart Wales. He said that he'd been in prison and he'd forgotten to do this. He said this was just neglect and he was not trying to pull the wool over anyone's eyes.
20. The Appellant accepted that he had some involvement in the personal life of his tenants when he was called upon to help them complete forms etc. He described how one of his tenants had suffered a mental breakdown and he'd had to give him some support. He denied however that he had any spurious agenda in getting close to his tenants, his only agenda was to be a good person he said. He said he's been a landlord for 20 years. It was put to him that he had a long history of dishonesty and he had access to vulnerable people and that this was a dangerous combination. He did not accept this. He said that he had served a prison sentence and been punished.
21. Rent Smart Wales in an updating statement had relied on some further incidents involving the Appellant including an allegation of unlawful eviction but they did not put much emphasis on these incidents at the hearing which suggested they were not entirely happy with the validity of the complaints made.
22. In his final submissions the Appellant said that he'd been foolish when he was young and he accepted that he had committed some serious offences but denied that there was a pattern of offences. He asked the tribunal to quash the decision to revoke his licence. He had spent time in custody and had enough time to reflect on his poor decisions in the past. He accepted however that no amount of submissions by him would diminish the seriousness of the offences. He took pride in the quality of the accommodation he managed and referred the Tribunal to the numerous references he had provided from current and previous tenants. Whilst in prison he'd been a peer mentor for other prisoners which showed that he could act in a responsible manner. He pointed the Tribunal to the case of Rhys George v Rent Smart Wales where a landlord with drug offences was found to be fit and proper.
23. In response Ms Brownlow said that some of the offences at least had been committed in order to buy a property portfolio. Accordingly, the offences were closely linked to the Appellant's role as a landlord. She also stressed the fact that the Appellant had failed to report the offences which illustrated a continuation of dishonest behaviour. She said

currently the licence had expired and there was no intention to renew it. She said that the evidence showed that there was a pattern of dishonesty and the Tribunal could not be satisfied that the Appellant was fit and proper.

Determination

24. At the date of the hearing it was common ground that none of the convictions relied upon by Rent Smart Wales were spent under the Rehabilitation of Offenders Act 1974. The guidance to the Act confirms that consecutive sentences are considered accumulatively. The Appellant was sentenced to 56 months in prison which has the effect that the offences won't ever be spent because this is the consequence where a custodial sentence of over 4 years imposed. In any event the issue of spent offences was not central to the Tribunal's determination because the offences concerned were sufficiently serious and relevant to be considered even if they had been spent.
25. There is no doubt that the offences committed by the Appellant are serious and are relevant to the question of whether he is fit to hold a licence. The Act specifically required the licensing authority to consider fraud offences. All of the offences committed by the Appellant involve some level of dishonesty and/or fraud. Moreover, the offences are such that some considerable planning has gone into the criminal conduct.
26. The Tribunal does not accept the contention put forward by the Appellant that the crimes he committed were effectively victimless because he'd paid the money back and large banks were involved. The offences remain very serious and reflect the conduct and character of the Appellant. He is not truly contrite but seeks to diminish the importance of his misdemeanours as a means to an end - i.e. getting his landlord licence.
27. Neither does the Tribunal accept the Appellant's proposition that the offences are stale because they were committed back in 2003. In fact, the offences had taken place over a number of years beyond 2003. There is a clear pattern of offending. Moreover, the Appellant failed to inform the licensing authority of his convictions which is also a reflection of his conduct and character. The Tribunal does not accept that he forgot to do this. Rent Smart Wales discovered the convictions and confronted the Appellant with this information at which point he "came clean".
28. The Tribunal had some sympathy for the Appellant's position. He clearly wants to be a landlord and overall he seems to have been a good landlord as reflected in the references which were impressive. Nonetheless the Tribunal, like Rent Smart Wales have concerns about the Appellant being in a position of trust when he has demonstrated a proclivity for dishonesty in the past. On his own account he has assisted his tenants with applications for benefit etc. There is a risk that the Appellant will see an opportunity for financial gain and use it. Furthermore at least in relation to the Cathedral Road property the Appellant's crimes had funded the furtherance of his role as a landlord. In these circumstances it is

difficult to see how he could be regarded as a fit and proper person. The Tribunal stresses however that it is making its decision on the basis of how things stand currently.

29. For these reasons the Tribunal dismisses the Appellant's application and the revocation of his licence stands.

Dated this 22nd day of February 2022

Judge Shepherd
Chairman