

TRIBIWNLYS EIDDO PRESWYL
RESIDENTIAL PROPEY TRIBUNAL
RENT ASSESSMENT COMMITTEE

Reference: RAC/0014/11/21

Property: 18 Cyntwell Cresent, Caerau, Cardiff, CF5 5QG.

Landlord: Samira Boukas

Tenant: Mr K Bird

Committee: T Lloyd, Chairman
M Taylor MRICS, Surveyor

Decision

For the reasons as set out below, we find as a fact that the Section 13 Notice is invalid in this instance and as such this Tribunal has no jurisdiction to proceed with this Application.

Reasons for the Decision

1. By way of an Application dated 25th October 2021 the Applicant applied to this Tribunal for the rent in respect of the property which he is occupying yep
2. being 18 Cyntwell Crescent, Caerau, Cardiff to be determined following a Section 13 Notice served on behalf of his Landlord to review the rent from £950.00 to £1,025.00 per calendar month.
3. The Applicant included with his application form a copy of the Section 13 Notice and also a covering letter dated 2nd October 2021. In green ink by way of annotations to the covering letter from the Landlord's Agents (RWM Estates) the following is set out (reproduced):

The 2nd October date is circled and below the following written in inverted commas *"called me on the 8th Oct dropped off on 15th ref Ryan went into hospital. Have a recording of the phone call on the 8th as evidence"*.

The Applicants surname is circled and written below *"is the wrong name"*. That name was spelt *"Brid"*.

4. Directions were made in relation to the matter and also directions to progress the case by way of the Applicant submitting comparable evidence if he so desired in relation to the rental contended for.

5. A Case Management Conference was convened on the 18th May 2022 on the CVP Platform.
6. The Surveyor Member and Tribunal Judge initially joined the hearing together with the Applicant and it became apparent there was no representation from the Landlord at that stage. The matter was adjourned initially until 10.15am from the 10.00am start and then latterly until 10.30am at which time Mr Meredith from RWM Estates joined by telephone to represent the Landlord.
7. The Tribunal enquired of the Applicant as to the position and he indicated that he had initially raised an issue about validity of the Notice but due to having had to prepare all of his evidence he did not mind the matter proceeding as he had in his words spent "two or three hours in preparation".
8. The Tribunal Judge explained the position to the parties insofar as the Tribunal's jurisdiction emanates from Section 14 (ii) of the Housing Act 1988 (as amended) and requires a Notice to have been served on the Tenant to effect an Application. That Notice had to be valid.
9. Submissions were then sought initially from the Applicant. He confirmed that whilst the date on the covering letter was the 2nd October 2021 the letter and Notice were served upon him at a later date. He was not 100% sure but thought it may have been the 15th October 2021. Clearly if that was the case the Notice is invalid as it does not provide for the requisite one month period before the rent review takes effect.
10. Submissions were then sought from Mr Meredith who confirmed that the letter had been created on a weekend, he himself personally served the letter and Notice on the Applicant and he was clear in his evidence that it was at some time after the 2nd October 2021. He could not precisely say when it was as he said he had no access to his file. Bearing in mind that the matter had been listed for some time and he was aware of the hearing the absence of such information was unfortunate. Nevertheless, when asked, Mr Meredith clearly confirmed he definitely did not serve the Notice and letter on the 2nd October 2021 but at a later date.
11. The Tribunal then retired to consider the matter further.

Decision

12. Having considered the matter further it is abundantly clear that the Notice did not give the requisite one month before the purported review was to take effect. Accordingly, we find as a fact that the Notice is defective. That being the case the Application cannot proceed as the Tribunal has no jurisdiction.

Other Matters

13. As an aside we take on board the comments made by the Applicant that it was unfortunate that this matter had not been dealt with as a preliminary matter before he had to collate all his other valuation evidence. That comment will be considered further in due course by this Tribunal with a view to seeking to streamline cases to avoid such an eventuality in the future.

Dated this 19th day of May 2022

Chairman