



**FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)**

Case Reference : **MAN/00CG/HNA/2019/0035**

Property : **597 Abbeydale road, Sheffield s7 1ta**

Applicant : **Madhia Kayani**

Respondent : **Sheffield city council**

Type of Application : **Appeal against penalty, s. 249(a) Housing Act 2004**

Tribunal Members : **A M Davies, LLB
J Jacobs, MRICS**

Date of Determination : **17 May 2019**

Date of Decision : **22 May 2019**

DECISION

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The Respondent's Final Notice to the Applicant 5 February 2019 is varied by substituting the sum of £1000 for the penalty charge of £1500.

REASONS

THE FACTS

1. The Applicant owns 597 Abbeydale Road, Sheffield which at all material times was let to tenants.
2. With effect from 1 November 2018 the Respondent Council exercised its statutory powers to designate a Selective Licensing Area which included the subject property. Landlords of housing within a Selective Licensing Area are required to apply for a licence, which is issued subject to compliance with conditions, relating, for example, to the state of repair of the property.
3. The Applicant was unaware that Abbeydale Road had been designated an area for Selective Licensing. She lives in a different part of the city and did not see notices published by the Respondent. Letters sent by the Respondent to warn the Applicant of her obligation to apply for a license were incorrectly addressed, and it appears that she did not receive them.
4. The Applicant first had notice of her failure to apply for the necessary licence on 19 November 2018 when she received an Intention to Issue a Financial Penalty Notice (Notice of Intent) proposing a penalty of £5000. On receipt, the Applicant applied for a licence and made representations to the Respondent as to why the proposed financial penalty should be reduced. However, her initial application for a licence was ineffective, because she did not submit the license fee with it.
5. The Respondent took the Applicant's representations into account, and reduced the penalty to £1500. No further reduction was forthcoming from the Respondent, and so the Applicant applied to this tribunal on 24 January 2019 for a review of the amount of the penalty.

THE STATUTORY POWERS

6. The Respondent's powers are contained in Schedule 13A to the Housing Act 2004. Failure to apply for a licence for a property within a Selective Licensing Area is an offence. The Respondent must issue a Notice of Intent before the end of 6 months beginning on the date when the Respondent has evidence that an offence has been committed, or at any time when the offence is continuing.
7. The landlord on whom a Notice of Intent is served may make representations within 28 days, and the Respondent must then decide whether to impose a financial penalty, and if so, decide on the amount.
8. A local housing authority has some discretion as to how to calculate financial penalties, but must consider whether the landlord's culpability is "high", "medium" or "low" and whether the harm (as defined) caused by the failure to obtain a licence is "high", "medium" or "low". A chart published by the housing authority sets out the resulting figures for the highest and lowest penalties appropriate to the level of blame and harm.

9. On receipt of a landlord's representations, the amount of penalty indicated in the Notice of Intent may be varied as seems appropriate to the housing authority. If he is dissatisfied, the landlord may apply to this tribunal for a review.

CALCULATION OF THE PENALTY

10. The Respondent assessed the culpability of the Applicant as "medium", and the harm as "low". This gave a starting point of £5000 for the penalty according to the Respondent's published table of fines.
11. Subsequently the Applicant's representations were considered, and the penalty was reduced to £1500 in view of the Applicant's previous good record, and the fact that it appeared that she had not received notice of the requirement to apply for a licence.

THE DECISION

12. The Tribunal accepts the Respondent's assessment that the harm caused by the Applicant's failure to apply for a licence was "low". In terms of culpability, the Applicant failed to pay the necessary fee when applying for a licence on receipt of the Notice of Intent. This is in line with the Respondent's descriptions of low level of culpability, namely: no or minimal warning is given to the Applicant, the offence is an isolated incident, and a significant but inadequate attempt is made to comply with the licensing obligations. In addition, the Applicant has been receiving no rent from her tenants. In the circumstances a further reduction in the penalty to £1000 is indicated, and the Final Notice is varied accordingly.

Signed: Judge Angela Davies

Date: 22 May 2019