



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

Case Reference : **MAN/00BY/HNA/2019/0007**

Property : **30 Wordsworth Street, Liverpool L8 0RR**

Applicant : **DENTE LIMITED**

Respondent : **LIVERPOOL CITY COUNCIL**

Type of Application : **Rent Repayment Order**

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

Date of Determination : **31 May 2019**

Date of Decision : **17 June 2019**

DECISION

The Respondent's final notice dated 5 December 2018 is confirmed.

REASONS

THE PROPERTY

1. Between 13 August 2017 and 10 May 2018 the Applicant let his property at 30 Wordsworth Street, Liverpool ("the Property") to Mr Mihai Vaduva. It was occupied by Mr Vaduva and his extended family.
2. From 1 April 2015 the Property was subject to the Respondent's city wide selective licensing scheme. The Applicant held a licence issued on 24 August 2017 which described the Property as having three bedrooms. The third bedroom is the second floor attic room.
3. It was a condition of the licence that a smoke alarm be installed on "each storey of the premises on which there is a room used wholly or partly as living accommodation".

THE PENALTY

4. The Applicant failed to provide a smoke alarm in the attic bedroom. He did not attend inspections of the Property when invited to do so by representatives of the Respondent. Following those inspections, the Applicant did not install a smoke alarm in the attic on receiving notice to do so.
5. A Notice of Intent to impose a financial penalty was sent to the Applicant on 28 August 2018.
6. Following receipt of representations by the Applicant, on 5 December 2018 the Respondent issued a Final Notice to impose a financial penalty, the penalty being £5000. The Respondent assessed the degree of culpability as "medium" and the level of potential harm was "high". The Tribunal accepts the Respondent's assessments.
7. On 15 January 2019 the Applicant appealed to this Tribunal against the amount of the penalty.

THE LAW

8. Financial penalties imposed under section 249A of the Housing Act 2004 ("the Act") are dealt with at Schedule 13A of the Act. A person on whom a financial penalty has been imposed may appeal to this Tribunal, which has power to confirm, vary or cancel the Final Notice.

THE DECISION

9. The Applicant initially suggested that his tenants had removed or tampered with the smoke alarms he had installed in the property. Subsequently, he claimed that it was a term of the tenancy agreement that the attic was not to be used as a bedroom. He produced to the Tribunal a signed "additional clause added to the [tenancy] agreement" in which Mr Vaduva agreed that using the ground floor rooms or the attic as bedrooms would be a breach of the agreement.

10. The Applicant claims that the tenant was in breach of the agreement, and that he was denied access to view the Property or to carry out any work on it.
11. The Tribunal finds that the Applicant had the opportunity to install smoke alarms in all rooms when letting the property, and to inspect and check for the presence of smoke alarms during the Respondent's inspections. He was well aware at all times that the number of children and adults living in the Property inevitably resulted in the use of the attic as a bedroom. There are no circumstances that justify a reduction in the financial penalty imposed by the Respondent.

Signed: Judge A. Davies

Dated: 17 June 2019