



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

Case Reference : **CAM/33UH/RTB/2019/0002**

Property : 6 Ethel Gooch Road, Wymondham, Norfolk NR18 0LJ

Applicant : Ms Judith Barclay (Tenant)

Respondent : Saffron Housing Trust Ltd (Landlord)

Type of Application : Appeal against the landlord's denial of the tenants' right to buy [Housing Act 1985, Sch 5, para 11 (as amended)]

Tribunal Members : G K Sinclair & G F Smith MRICS FAAV REV

Date of inspection and determination : Tuesday 11th June 2019

Date of substantive decision : 12th June 2019

Date of this decision : 11th July 2019

DECISION REFUSING PERMISSION TO APPEAL

Decision of the tribunal

1. On 12th June 2019 the tribunal issued its decision following its determination of this application on the basis of the papers filed. Today, 11th July 2019, the tribunal received by email only an application by the respondent for permission to appeal. The application seeks to rely upon evidence that was not put before the tribunal at the material time, nor to the tenant when she pointed out that the tenancy was granted to her on her 50th birthday.
2. By Notice in Reply to the tenant's right to buy claim (Form RTB2) dated 1st March 2019 the respondent denied that she had the right to buy because paragraph 11 of Schedule 5 to the 1985 Act applies, viz
 - a. that the property was first let before 1990
 - b. that it is particularly suitable for occupation by elderly persons, and
 - c. was let for occupation by a person aged 60 or more.
3. The respondent now seeks to say that the property was previously let (under an entirely different tenancy) on 17th October 1988 to a tenant aged 71. No further particulars are given.
4. The tribunal has considered the application by the respondent for permission to appeal and determines that :
 - a. it will not review its decision; and
 - b. permission be refused.
5. In accordance with section 11 of the Tribunals, Courts and Enforcement Act 2007 and rule 21 of the Tribunal Procedure (Upper Tribunal) (Lands Chamber) Rules 2010, the proposed appellants may make further application for permission to appeal to the Upper Tribunal (Lands Chamber). Such application must be made in writing and received by the Upper Tribunal (Lands Chamber) no later than 14 days after the date on which the First-tier Tribunal sent notice of this refusal to the party applying for permission to appeal.

Reasons for this decision

6. The tribunal's decision was based on the very limited evidence and submissions put before it in writing.
7. By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 (as amended) the tribunal must give, in respect of any decision finally disposing of a matter, a decision notice stating the tribunal's decision and written reasons for that decision. By rule 52(5) an application for permission to appeal must identify the decision of the tribunal to which it relates, state the grounds for appeal, and state the result the party making the application is seeking.
8. What information a party chooses to put before a tribunal (subject to any specific directions to the contrary) is a matter for it, and the tribunal can only determine applications on the basis of the evidence before it, supplemented as appropriate with its own knowledge and experience. A party should therefore take care in the material that it chooses to adduce in evidence. It does not get a second chance after the decision has already been made.
9. The tribunal is therefore satisfied that, in accordance with the criteria adopted by

the Upper Tribunal, there are no reasonable grounds for arguing :

- a. That the tribunal wrongly interpreted or applied the relevant law
- b. That it took account of irrelevant considerations, or failed to take account of a relevant consideration or evidence, or
- c. That there was a substantial procedural defect.

Dated 11th July 2019

Graham Sinclair

Graham K Sinclair
Tribunal Judge