



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

Case Reference : **MAN/00CG/HNB/2019/0016**

Property : **Rear of 281 London Road, Sheffield, S2 4NF**

Applicant : **SG Property Agents Limited**

Respondent : **Sheffield City Council**

Type of Application : **Appeal against penalty: s249(a) Housing Act 2004**

Tribunal Members : **Judge, Katherine Southby
Valuer Member, Jenny Jacobs**

Date of Decision : **8 November 2019**

Date of Determination : **6 December 2019**

DECISION

The Respondent's Final Notice to the Applicant dated 26 June 2019 is confirmed.

REASONS

THE FACTS

1. The flat owner and landlord Mrs Susan Bower has a full managed service agreement for the property at 281 London Road Sheffield with Hunters letting agent, which is part of the Hunters franchise owned and operated under licence by the Applicant.
2. With effect from 20 June 2018 the Respondent designated a Selective Licensing Area which included the property. Consequently the Applicant, being the person having control of or managing a tenanted property within the area, was required to obtain a Selective Licence from the Respondent.
3. The Applicant accepts that his failure to obtain a licence was an offence under section 95 of the Housing Act 2004.
4. The Applicant did not complete his application for a Selective Licence until 22 May 2019.

THE STATUTORY POWERS

5. The Respondent's powers are contained in Schedule 13A to the Housing Act 2004. An offence having been committed, the Respondent must issue a Notice of Intent before the end of 6 months beginning on the date when the Respondent has evidence of the offence, or at any time when the offence is continuing. In this case the Notice was dated 21 May 2019 and the penalty proposed by the Respondent was £4500.
6. The party 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, make a final decision as to the amount.
7. 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 in bands the resulting figures for the highest and lowest penalties appropriate to the level of blame and harm.
8. 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

9. The Respondent assessed the culpability of the Applicant as "medium", and the harm as "low". According to the Respondent's published penalty chart, this gave rise to a penalty of £5000.

10. After considering the Applicant's written submissions, the Respondent concluded that a lower figure of £4500, was appropriate.

THE DECISION

11. The Tribunal has seen copies of the reminders sent to the Applicant by the Respondent, and notes that the Applicant states that the selective licensing application was initially overlooked by the Applicant as they were busy in the process of purchasing another company. We note that the Applicant accepts that they were notified by the Respondent on 3 April 2019 and states that they commenced the application process immediately but were delayed by their inability to gain access to obtain a floor plan. They sent the application in without the floor plan on 21 May 2019 following the Notice of Intent to Impose a Financial Penalty from the Respondent.
12. The Tribunal finds that the Applicant failed to make any effort to obtain a licence until they were given a written warning by letter dated 3 April 2019 that a financial penalty could be applied. The Tribunal notes that he then had problems with obtaining entry to prepare a floor plan but is not persuaded that the Applicant made urgent and effective efforts to overcome these difficulties and also finds that the Applicant did not make urgent and effective efforts to lodge those other parts of the application which were not affected until after the final notice has been issued. The level of culpability is "medium". The Applicant is a well-established professional letting agent, who could be expected to be aware of the City Council's Selective Licensing Scheme and exercise all due diligence in ensuring that any of its premises that should be licensed were licensed.
13. The harm done as a result of the offence has properly been assessed at "low" since the tenant suffered no loss. The Tribunal notes that the property was not in multiple occupation.
14. The Tribunal notes that the Respondent took into account that this is the Applicant's first offence and therefore approves the Respondent's decision that the appropriate penalty is as set out in their final notice, being £4500.

Judge Katherine Southby
8 November 2019