



FIRST-TIER TRIBUNAL PROPERTY CHAMBER

Applicant

Mrs D. Slack

-v-

Respondent

Mrs Handen Cinar

RE: 1 Baxter Road, Sheffield, S6 1JF

**Tribunal Procedure (First-tier) Tribunal
(Property Chamber) Rules 2013
Rules 92(a).**

ORDER

The Tribunal strikes out the application received on 11 November 2020.

REASONS FOR THE ORDER

The Tribunal wrote to the parties on 13 November to advise that the Tribunal does not consider that it has the jurisdiction to determine this application and inviting the parties' representations on this matter. Specifically, the Tribunal advised that "it appears you may have a tenancy regulated under the Rent Acts and not an Assured Tenancy which can be affected by the Notice served. You should provide details of any change or transfer of the Tenancy to the Tribunal within 14 days"

The Tribunal is grateful to both parties for their representations and submissions, which has greatly assisted the Tribunal. It is clear that the Tenant, Mrs Slack, has occupied the current dwelling since the 1960's and this is not disputed by the parties. The original tenancy therefore clearly predates the 1988 Housing Act and was regulated by the Rent Acts. The Respondent contends that when the tenant surrendered part of Property, the land and

stables, in exchange for a capital sum and her rent being capped at the previously determined 2006 fair rent, she in fact surrendered the whole tenancy and took out a fresh tenancy of the part she retained. The Respondent contends that the status of her occupancy then changed to that of being an assured shorthold tenant under the 1988 Housing Act.

The Respondent cites the following extract from the Deed of Surrender document dated 10 April 2008 in support of this contention.

“the Tenant with full title guarantee surrenders and yields up and releases to the Landlord all the Tenant’s estate interest and rights.....”

However, the Respondent omits to quote the remainder of that sentence, which states:

“in that part of the Premises shown hatched black on the plan annexed hereto, to the intent that all or any estate interest or rights of the tenant in that part of the Premises, whether granted by or arising from the Lease or by any deed or document supplemental to the Lease or otherwise, is to merge and be extinguished in the Landlord’s reversionary title.”

This demonstrates that only the land and stables were surrendered by the Tenant and that the terms of her existing tenancy predating the 1988 Housing Act, with the exception of the capping of the rent passing, remained unaltered.

The Tribunal jurisdiction emanates from the 1988 Housing Act and is only applicable to tenancies that fall under that Act. The Tribunal accordingly does not have the jurisdiction to determine this application. The Landlord’s notice is also therefore invalid, and the rental increase sought is not payable.

The Respondent has made extensive additional assertions and submissions in her supplementary submissions. However, having arrived at this central and fundamental finding as to the status of the tenancy, the merits of the Respondent’s supplementary arguments are insufficient to confer jurisdiction upon this Tribunal.

Accordingly, this application is now struck out for a lack of jurisdiction.

Dated: 19 November 2020

Regional Surveyor N. Walsh