



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

Case Reference : **MAN/ooDA/HIN/2013/0004**
Property : **9 St James Street, Wetherby LS22 6RS**
Applicant : **Thomlinsons**
Respondent : **Leeds City Council**
Type of Application : **Housing Act 2004 – Section 49(7) and
Schedule 1 Paragraph 10(1)**
Tribunal Members : **Laurence Bennett (Tribunal Judge)
Elizabeth Thornton-Firkin BSc MRICS**
Date of determination : **21 October 2013**

DECISION

Summary decision

1. The Applicants appeal against the charge for Enforcement Action in the sum of £591.42 is dismissed.

Appeal

2. Thomlinsons appeal against an Improvement Notice dated 7 May 2013 served by Leeds City Council upon them and Landlord Mrs P Wardman in respect of 9 St James Street, Wetherby LS22 6RS.

Preliminary

3. On 7 May 2013 the Respondent served an Improvement Notice in respect of category 1 and category 2 hazards at the Property.
4. The Applicants appeal in respect of the notice was received by the Tribunal on 24 May 2013.
5. The Notice was revoked by the Respondent following inspection of the Property on 10 September 2013.
6. The Applicants appeal continues in respect of the costs charged for Enforcement Action under Section 50 Housing Act 2004 by Leeds, notice of which was given on 7 May 2013.
7. Neither party requested a hearing. The Tribunal convened without the parties to determine the issue on the basis of both parties submissions and representations.

The Law

8. Section 49(7) Housing Act 2004 provides that the Tribunal may make such order as it considers appropriate reducing, quashing, or requiring the repayment of any charge under this section made in respect of the Notice or Order.

Evidence and submissions

9. The Respondent submits that it was under a duty to take Enforcement Action as at least one category 1 hazard had been identified. This followed a complaint received from the Tenant of the Property on 31 January 2013, an inspection on 14 February 2013, a letter to the Applicant 18 February 2013 and second inspection 2 May 2013. Although at the time of the second inspection no remedial work had been undertaken, on third inspection 10 September 2013 the Notice was stated to have been fully complied with save in respect of one issue which had been partially addressed reducing the category 1 hazard to a low category 2 hazard. As a result the Notice was revoked.
10. The Respondent submits an opportunity to carry out the work had been given to the Applicant before formal Enforcement Action. Further, the Notice was complied with either fully or so as to reduce the hazard and that this was due to the Enforcement Action.

11. The Applicant does not consider the Improvement Notice was warranted or reflected the condition of the Property at the time. Some issues were as a result of the Tenant's action. Other work particularly damp ingress could not be carried out effectively whilst the Property was occupied. The Tenant was under notice expiring on 31 March 2013 but despite proceedings did not vacate until 10 June 2013. They state that: "This information was given to the LCC prior to their issuing the Improvement Notices and we feel these Improvement Notices were unjustifiable. To summarise we feel that much of Mr Dore's report is inaccurate and accordingly we should not be held responsible for any costs incurred by him."
12. The Applicants original appeal included detailed comments and photographs in respect of the individual requirements within the Notice.

Tribunal's Conclusions

13. It is not disputed that complaints were received by LCC and hazards found on inspection. Whether or not as a result of the particular Tenant's occupation, save in respect of window openings, the Applicants do not dispute the existence of the defects but wanted to delay attention until possession was obtained. Work was duly carried out.
14. We conclude that the Notice procedure was on the face of it appropriate and achieved the desired result in that the risks are no longer such that the Respondent assesses that a Category 1 hazard continues.
15. The Notice was appealed prior to the works being undertaken. We find no evidence that in the intervening period up to the September 2013 inspection the Applicants were informed that the works were carried out. That inspection resulted in the decision to revoke the Improvement Notice. However, the costs sought entirely relate to expenses incurred on or prior to 7 May 2013 the date of the Notice.
16. Having considered the chronology of events and the relevant steps taken prior to the service of the Notice we find that the Respondents' officers acted reasonably and proportionately in the service of the Notice. The work was outstanding and despite the Applicants submission that many items reflected the Tenant's lifestyle choice it was the Tenant who initiated the first inspection. Category 1 hazards existed and we find that it would not have been appropriate for the Respondent to have ignored them.
17. The amount of the Respondent's charge is within our knowledge and expectation for the activities undertaken. Although the one inspection issue, the windows, may have been in error we find the charges would have been unaltered if this issue had not been included.
18. For the above reasons we find that the Applicant is liable for the Respondent's costs notified and the appeal fails.

Order

19. The Applicant's appeal against the charge for Enforcement Action in the sum of £591.42 is dismissed.