

Unipol Code Tribunal - Nottingham
Thursday 4th March 2021 – Chair’s Action

Consideration of a Complaint Brought Against Mrs Manjinder Dhillon

Report from the Tribunal

Detail of the Complaint

The Tribunal considered the membership of Mrs Dhillon after a Code complaint by a tenant of 6a Gedling Grove. The complainant was represented by their father in this matter.

The Tribunal considered a number of alleged breaches of the Code. One breach in respect of 2.03 of the Code, relating to the contractual terms under which the property is offered, was upheld. The other breaches were not upheld.

Other Matters that the Tribunal Took into Account

In January 2021, the tenant had made a previous complaint to Unipol about control of the central heating in the property, which was resolved promptly by the landlord to the satisfaction of the tenant.

Report

The Tribunal considered a number of alleged breaches of the Code relating to contractual terms, accurate representation of the property and access to the property. The Tribunal considered evidence from both parties and taking into account all this information, these breaches were not upheld.

The Tribunal also considered an alleged breach of the following clause:

2.03 Interested parties are provided with a copy of any contractual terms under which a property is offered, such terms to include details of any fees payable in addition to rent and any arrangements involving tenants’ guarantors. Interested parties are, when specifically requested, permitted not less than 24 hours within which to seek independent advice regarding those contractual terms;

The complainant alleged that the landlady did not allow the tenants access to the loft, basement and garage, and that the fact that these areas were inaccessible to tenants was not detailed in the tenancy agreement. The tenancy agreement was reviewed by the Tribunal and it was confirmed that the tenancy agreement was silent on this point. The Tribunal noted that it is a general principle that implicit in a tenancy agreement is exclusive possession of the whole property. It was considered that the landlord would have been entitled to exclude certain parts of the property from the tenancy if it had been stated in the contract, but that this had not taken place.

Mrs Dhillon provided some evidence about why she restricted access to these areas. She stated that she was advised, as part of the HMO licensing process in November 2007, that tenants should not be afforded access to the loft and cellar spaces as these areas were not considered habitable and presented possible fire and health and safety risks. Mrs Dhillon has provided a letter from Nottingham City Council HMO team confirming that preventing access to non-habitable spaces is commonly accepted as a method for managing fire safety.

Mrs Dhillon also stated that she informed the tenants at the viewing and before they moved in that these areas were not accessible. As evidence of this, Mrs Dhillon provided a statement by four of the co-tenants confirming that they had understood this from the outset. Mrs Dhillon also showed that the advert for the property details the areas that are included in the rent including the living space, bedrooms and bike store. There was no mention of garage, basement or loft.

Decision

The Tribunal accepted the co-tenants statement about being informed about there not being access to certain areas in the property at the viewing, and it also accepted the validity of the reasons for this and the letter from Nottingham City Council, and that Mrs Dhillon had therefore taken action to inform the tenants of the restricted access. However it took the view that this was not the same as being provided with a copy of the “contractual terms under which the property is offered” and therefore it followed that 2.03 was not complied with, and complaint in this regard was upheld.

Having considered these matters and taking into accounts Mrs Dhillon's co-operative approach during the complaint and subsequent Tribunal, her lack of historic complaints, the statements of the co-tenants, although upholding the complaint made, the Tribunal felt that Mrs Dhillon showed acceptance of the breach and could therefore retain membership of the Code if she undertook the following action:

- Review and update her tenancy agreement to make clear to future tenants the extent of the property included and any restrictions on possession within 30 days of the Tribunal.

Follow up action

Following the Tribunal, Mrs Dhillon confirmed to the Codes Complaints Administrator that she had updated her tenancy agreement for future tenants as required.