IAC-AH-KRL-V1

FIRST-TIER TRIBUNAL
GENERAL REGULATORY CHAMBER
Professional Regulation

Tribunal References: PR / 2016 / 0052
PR / 2016 / 0053

Heard at Field House
On 25 May 2017
Further representations: 7 June 2017

Before

JUDGE PETER LANE

Between

PAUL LAWSON
T/A HOWARD ESTATES

Appellant

and

WESTMINSTER CITY COUNCIL

Respondent

Representation:

For the Appellant: In person, with Lisa Gurhey
For the Respondent: Kirsty Panton

DECISION AND REASONS

1. The appellant appeals against two monetary penalty notices issued by the respondent. The first, issued under the Redress Schemes for Letting Agencies Work and Property Management Work (Requirement to Belong to a Scheme

etc.) (England) Order 2014, contends that Paul Lawson T/A Howard Estates was engaged in letting agency work on 14 September 2016, without being a member of an approved property redress scheme. The second notice, issued under the Consumer Rights Act 2015, contends that Paul Lawson's T/A Howard Estates breached the relevant requirements of the 2015 Act between 12 and 19 September 2016, continuing until 10 November 2016, by not publicising details of relevant fees in accordance with section 83(1) of the Act or publishing a list of fees on the appellant's website, as required by section 83(3) of the Act.

2. The relevant legislation is set out in the Appendix to this decision.

3. Each notice required the appellant to pay a monetary penalty of £5,000, unless he appealed to the First-tier Tribunal.

4. The appellant did appeal. In the grounds, the appellant said that the premises known as 9 Clifton Road, Maida Vale, W9 1SZ, which was the address used by the respondent in connection with earlier correspondence concerning the alleged breaches, had been vacated in September 2015. Although the post had been checked, no letters from the respondent had been found.

5. It was further said that Mr Lawson had been in hospital, as at the end of October 2015, "for many weeks" and that the business had experienced a severe set of difficulties. Imposing the penalties would "put us out of business".

6. The grounds contended that "we would have no alternative but to put the company into liquidation as we are up to our overdraft limit already. Please also note that the company involved trading as Howard Estates is no longer in existence". Reference was made in the grounds to "a new company form with both myself and Lisa Gurhey".

7. In its response, the respondent explained that the appellant had, on four separate occasions, been sent advisory communications about the implementation of the relevant legislation. The address used, 9 Clifton Road, had been the one shown on the appellant's website. The appellant had also been e-mailed with the requisite information to its e-mail address, as shown on that website. Although some or all of those letters may not have been received by the appellant, the respondent submitted that that would have been the appellant's own fault, as a correct up-to-date address had not been supplied on the website for over a year. There had also been a failure diligently to monitor an act on e-mails sent to the business.

8. The respondent made the further point that, in fact, there had been no legal requirement on it to write to the appellant at all.

9. Although acknowledging that the appellant acted quickly in respect of the joining of the requisite scheme, that had not been until after receiving the initial notice on 4 November 2016, which meant that the appellant had been noncompliant for nearly eighteen months.

10. So far as fees were concerned, the respondent did not consider that the appellant gained any benefit from contending that Mr Lawson was no longer working from the 9 Clifton Road address. The business materials had clearly given the impression that the office was being so used. It was not, then, the respondent contended, other regulatory offences may have been committed by the appellant.

11. As for the appellant's submission that the legal entity in question was, in fact, a company, the respondent noted that there was no mention of any such company on the appellant's website until after the notices were served. Mr Lawson's linked website merely said "Paul Lawson owner at Howard Estates". The appellant had made no mention of the company at an earlier stage.

12. The response stated that the respondent had been unable to find any accounts for a relevant company for the period 1 July 2014 to 19 April 2016, which was the date when a company called Honeybella Properties Limited had been incorporated. The respondent's case was that Paul Lawson, trading as Howard Estates, was the business in question for the period 1 July 2014 until 19 April 2016 "and this continued at least up to the point the new company details appeared on Howard Estates' website on a date after or before November 2016 when the initial notice was served".

13. As for the scale of the appellant's business, the asking rents advertised by the appellant were, in the respondent's view, consistent with Central London property prices. Looking at the appellant's website on 17 October 2016, one property had a required rental of £1,050 per week, whilst another had £2,500 per week. Since Mr Lawson was working from home and could be assumed to charge about ten percent to let and manage a property, the respondent considered it was difficult to see how the proposed penalties would put the appellant out of business. The respondent further noted that Mr Lawson's home, 41 Quickswood, was on the market for sale in July 2012 at a value of £1,750,000.

14. At the hearing, I heard evidence from Mr Lawson and from Mr Donald Silcock, of the respondent's Trading Standards Department. Mr Silcock adopted his written witness statement of 24 April 2017. This reiterates and expands upon the matters set out in the response, to which I have just made reference.

15. Towards the beginning of Mr Lawson's evidence, he made reference to a letter and financial materials having been delivered by him to the respondent in January 2017. The Tribunal made directions regarding the materials in

question, copies of at least some of which were handed by the appellant to the respondent at the hearing.

16. The respondent has complied with the directions. I shall have more to say about this in due course.

17. Mr Lawson said that he had been ill at certain points in time and that he had also had business difficulties arising from the actions of a family member and her partner. He did not regard Howard Estates as a letting agent. Howard Estates worked with an existing landlord / client base.

18. Mr Lawson did, however, say that he "put my hands up: we should have known about these things".

19. On the totality of the evidence, I find as a fact that breaches of the relevant legislation occurred, as set out in the final notices, at the times stated in those notices.

20. It is, I find, plain that the business of a letting agent, as defined in the legislation, was being carried on under the name of Howard Estates. So far as the redress scheme violation is concerned, "Howard Estates" engaged in "lettings agency work", within the definition of section 83(7) of the Enterprise and Regulatory Reform Act 2013. Work was manifestly being done in the course of a business "in response to instructions received from … a person seeking to find another person wishing to rent a dwelling house in England under a domestic tenancy and, having found such a person, to grant such a tenancy". It matters not whether the clients concerned were those for whom Howard Estates had previously acted and whose business it did not need to solicit by advertising.

21. As for the requirement to publicise fees, the definition of "letting agency work" in section 86 of the 2015 Act essentially mirrors that in the 2013 Act.

22. Furthermore and in any event, I accept Mr Simcott's evidence that, in fact, Howard Estates was advertising its services on Zoopla. Mr Lawson's attempt to explain away this difficulty was entirely unsatisfactory; indeed, it was incomprehensible.

23. I return now to the issue of whether Howard Estates was, at the material times, being operated by Mr Lawson or by a company. If it was the latter, then, notwithstanding that Mr Lawson was plainly involved in the running of the business (and may, for all one knows, have effective control of the company), he would not be the "person" to which the definitions of "letting agent" apply. Accordingly, he would not be liable to pay the monetary penalties.

24. Ms Panton's written submissions of 6 June 2017, concerning the further materials mentioned above, are candid and helpful. The respondent accepts that a letter and materials were, indeed, delivered to its offices in late January 2017. These did not find their way to the relevant Council offices until after the hearing on 25 May. The respondent "apologises for this oversight".

25. The documentation begins with Mr Lawson's letter to the respondent of 27 January 2017. So far as this letter relates to correspondence not being received at Clifton Road, I have already made relevant findings, which are in favour of the respondent.

26. The key issue in the letter is the following statement:-

> "I was a director of Clifton Properties Limited T/As Howard Estates until it was dissolved 23 August 2016 and I am currently a director of Honeybella Properties T/As Howard Estates together with Ms Lisa Gurhey. At no time have I ever been sole proprietor or owned these companies. All financial transactions have been made through these companies. Confirmation of this can be given by our accountants Pinnick Lewis, Handel House, 95 High Street, Edgware HA8 7BD, Mr Harry Daniel deals with company accounts etc.".

27. The other materials comprise a summary of payments out from the bank account of Honeybella Properties Limited; e-mail correspondence between the parties; Barclays Bank statements relating to Ms Gurhey; invoices from the Royal Mail addressed to Mr Lawson of "Howard Estates"; Barclays Bank account statements of Honeybella Properties Limited; professional indemnity documentation in the name of Honeybella Properties Limited; a certificate of incorporation of Honeybella Properties Limited dated 19 April 2016; a statement of account to Honeybella Properties Limited from Pinnick Lewis; an HM Revenue & Customs' quarterly return of tax due on rental income, addressed to "Howard Estates"; a VAT online acknowledgment of 12 August 2016 in the name of Honeybella Properties Limited; various client invoices in the name of Howard Estates; a BT invoice addressed to "Paul Lawson T/A Howard Estates"; invoices from ZPG to Howard Estates; a British Gas invoice to Lisa Grahey (sic) of "Howard Estates"; Barclays Bank statements in respect of "the director Clifton Properties Limited"; a certificate of incorporation dated 31 May 2011 in respect of Clifton Properties Limited; British Gas invoices in respect of "Howard Estate"; confirmation of VAT registration from HMRC in respect of Clifton Properties Limited; an invoice from the Property Software Group to "Howard Estates"; a letter from HMRC regarding an outstanding amount payable by Clifton Properties Limited; an invoice from the water delivery company addressed to "Howard Estates/Clifton Properties"; and notices of intent etc. it served in respect of the present proceedings.

28. Ms Panton's submissions of 6 June raised various questions, addressed to Mr Lawson. Neither he nor anyone else on the appellant's side has seen fit to address them.

29. Insofar as these questions and the matters to which they relate touch upon the issue of whether infringements of the legislation occurred in respect of Howard Estates, these do not affect the findings I have made earlier. Plainly, infringements occurred of the legislation regarding redress schemes and details of fees.

30. As can be seen – and as the respondent emphasises – the materials present a somewhat confusing picture regarding the issue of which person operates Howard Estates and, accordingly, is potentially liable to pay the monetary penalties. A number of the documents suggest that various third parties, including utility companies and HMRC, regarded "Howard Estates" as a sufficient descriptor of the entity with whom it was doing business or otherwise in a legal relationship.

31. Overall, however, I agree with the view to which the respondent appears to have come, having scrutinised these materials. It is more likely than not that, at the relevant times (which, according to the final notices, were all after the incorporation of Honeybella Properties Limited in April 2016) Howard Estates was, in reality, a trading name of Honeybella Properties Limited. It was, accordingly, Honeybella Properties Limited which was the "person" that was undertaking the activities of a "letting agent" and which breached its legal obligations, both as to the duty to be a member of a redress scheme and as to its duty to advertise a list of its fees on its website.

32. The respondent seeks permission "to amend our notice accordingly to replace Paul Lawson T/A Howard Estates with 'Honeybella Properties Limited' who we now believe may be the correct party to this action".

33. Both sets of legislation give the Tribunal power to "vary" a "final notice" (article 9(4)(c) of the 2014 Order; paragraph 5(5) of Schedule 9 to the 2015 Act). I have carefully considered whether it is appropriate to exercise this power in order to amend the name of the recipient of the final notice from Paul Lawson T/A Howard Estates to Honeybella Properties Limited. I have, however, reached the conclusion that it is not appropriate to do so. Although I accept that Mr Lawson and Ms Gurhey appear to control Honeybella Properties Limited, the latter is, in law, a wholly distinct legal entity from Mr Lawson. Although Mr Lawson could and should have highlighted this matter more clearly in his notice and grounds of appeal and, indeed, pointed it out to the respondent when served with the notices of intent, I accept that he did sufficiently highlight the issue in the letter of 27 January 2017, which unfortunately was not considered by the respondent earlier.

34. There is also the fact that, since the notices of intent were not served on Honeybella Properties Limited, there has been no compliance by the respondent with the relevant procedural provisions of the legislation regarding

notices. It is doubtful whether the legislature, in framing that legislation, envisaged that a Council or the Tribunal should be able, in effect, to dispense with the requirements to notify the person who is in breach.

35. For these reasons, I find that the final notices contain an error of fact and fall to be quashed. I do so with regret since, as I have indicated, the person controlling Howard Estates has, I find, breached the legislation. Nevertheless, if the respondent intends to take action in respect of those breaches, it must do so against Honeybella Properties Limited.

Decision

36. The appeals are allowed.

Judge Peter Lane

15 August 2017

APPENDIX

1. Redress scheme

Section 83(1) of the Enterprise and Regulatory Reform Act 2013 provides that:-

> "(1) The Secretary of State may by order require persons who engage in lettings agency work to be members of a redress scheme for dealing with complaints in connection with that work which is either—
>
> (a) a redress scheme approved by the Secretary of State, or
> (b) a government administered redress scheme."

Section 83(2) provides that:-

> "(2) A "redress scheme" is a scheme which provides for complaints against members of the scheme to be investigated and determined by an independent person."

Subject to specified exceptions in subsections (8) and (9) of section 83, lettings agency work is defined as follows:-

> "(7) In this section, "lettings agency work" means things done by any person in the course of a business in response to instructions received from-
>
> (a) a person seeking to find another person wishing to rent a dwelling-house in England under a domestic tenancy and, having found such a person, to grant such a tenancy ("a prospective landlord");
> (b) a person seeking to find a dwelling-house in England to rent under a domestic tenancy and, having found such a dwelling-house, to obtain such a tenancy of it ("a prospective tenant")."

Section 84(1) enables the Secretary of State by order to impose a requirement to belong to a redress scheme on those engaging in property management work. Subject to certain exceptions, "property management work"-

> "means things done by any person ("A") in the course of a business in response to instructions received from another person ("C") where-
>
> (a) C wishes A to arrange services, repairs, maintenance, improvements or insurance or to deal with any other aspect of the management of premises in England on C's behalf, and
> (b) the premises consist of or include a dwelling-house let under a relevant tenancy" (section 84(6))".

Pursuant to the 2013 Act, the Secretary of State has made the Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc) England Order 2014 (SI 2014/2359). The Order came into force on 1 October 2014. Article 3 provides:-

> "Requirement to belong to a redress scheme: lettings agency work
>
> 3.—(1) A person who engages in lettings agency work must be a member of a redress scheme for dealing with complaints in connection with that work.
>
> (2) The redress scheme must be one that is—
>
> (a) approved by the Secretary of State; or
> (b) designated by the Secretary of State as a government administered redress scheme.
>
> (3) For the purposes of this article a "complaint" is a complaint made by a person who is or has been a prospective landlord or a prospective tenant."

Article 5 imposes a corresponding requirement on a person who engages in property management work.

Article 7 of the Order provides that it shall be the duty of every enforcement authority to enforce the Order. It is common ground that, for the purposes of the present appeal, the relevant enforcement authority is the London Borough of Islington ("the Council").

Article 8 provides that where an enforcement authority is satisfied on the balance of probabilities that a person has failed to comply with the requirement to belong to a redress scheme, the authority made by notice require the person to pay the authority a monetary penalty of such amount as the authority may determine. Article 8(2) states that the amount of the penalty must not exceed £5,000. The procedure for the imposition of such penalty is set out in the Schedule to the Order. This requires a "notice of intent" to be sent to the person concerned, stating the reasons for imposing the penalty, its amount and information as to the right to make representations and objections. After the end of that period, the enforcement authority must decide whether to impose the monetary penalty, with or without modification. If it decides to do so, the authority must serve a final notice imposing the penalty, which must include specified information, including about rights of appeal (article 3).

Article 9 of the Order provides as follows:-

> "Appeals

9.—(1) A person who is served with a notice imposing a monetary penalty under paragraph 3 of the Schedule (a "final notice") may appeal to the First-tier Tribunal against that notice.

(2) The grounds for appeal are that—

(a) the decision to impose a monetary penalty was based on an error of fact;
(b) the decision was wrong in law;
(c) the amount of the monetary penalty is unreasonable;
(d) the decision was unreasonable for any other reason.

(3) Where a person has appealed to the First-tier Tribunal under paragraph (1), the final notice is suspended until the appeal is finally determined or withdrawn.

(4) The Tribunal may —

(a) quash the final notice;
(b) confirm the final notice;
(c) vary the final notice."

2. Details of fees

The Consumer Rights Act 2015 imposes a requirement on all letting agents in England and Wales to publicise details of their relevant fees. This is achieved by sections 83 to 86:-

"**CONSUMER RIGHTS ACT 2015**

Chapter 3

Duty of Letting Agents to Publicise Fees etc

83 Duty of letting agents to publicise fees etc

(1) A letting agent must, in accordance with this section, publicise details of the agent's relevant fees.

(2) The agent must display a list of the fees--

(a) at each of the agent's premises at which the agent deals face-to-face with persons using or proposing to use services to which the fees relate, and

(b) at a place in each of those premises at which the list is likely to be seen by such persons.

(3) The agent must publish a list of the fees on the agent's website (if it has a website).

(4) A list of fees displayed or published in accordance with subsection (2) or (3) must include--

(a) a description of each fee that is sufficient to enable a person who is liable to pay it to understand the service or cost that is covered by the fee or the purpose of which it is imposed (as the case may be),

(b) in the case of a fee which tenants are liable to pay, an indication of whether the fee relates to each dwelling-house or each tenant under a tenancy of the dwelling-house, and

(c) the amount of each fee inclusive of any applicable tax or, where the amount of a fee cannot reasonably be determined in advance, a description of how that fee is calculated.

(5) Subsections (6) and (7) apply to a letting agent engaging in letting agency or property management work in relation to dwelling-houses in England.

(6) If the agent holds money on behalf of persons to whom the agent provides services as part of that work, the duty imposed on the agent by subsection (2) or (3) includes a duty to display or publish, with the list of fees, a statement of whether the agent is a member of a client money protection scheme.

(7) If the agent is required to be a member of a redress scheme for dealing with complaints in connection with that work, the duty imposed on the agent by subsection (2) or (3) includes a duty to display or publish, with the list of fees, a statement--

(a) that indicates that the agent is a member of a redress scheme, and

(b) that gives the name of the scheme.

(8) The appropriate national authority may by regulations specify--

(a) other ways in which a letting agent must publicise details of the relevant fees charged by the agent or (where applicable) a statement within subsection (6) or (7);

(b) the details that must be given of fees publicised in that way.

(9) In this section--

"client money protection scheme" means a scheme which enables a person on whose behalf a letting agent holds money to be compensated if all or part of that money is not repaid to that person in circumstances where the scheme applies;

"redress scheme" means a redress scheme for which provision is made by order under section 83 or 84 of the Enterprise and Regulatory Reform Act 2013.

84 Letting agents to which the duty applies

(1) In this Chapter "letting agent" means a person who engages in letting agency work (whether or not that person engages in other work).

(2) A person is not a letting agent for the purposes of this Chapter if the person engages in letting agency work in the course of that person's employment under a contract of employment.

(3) A person is not a letting agent for the purposes of this Chapter if--

(a) the person is of a description specified in regulations made by the appropriate national authority;

(b) the person engages in work of a description specified in regulations made by the appropriate national authority.

85 Fees to which the duty applies

(1) In this Chapter "relevant fees", in relation to a letting agent, means the fees, charges or penalties (however expressed) payable to the agent by a landlord or tenant--

(a) in respect of letting agency work carried on by the agent,

(b) in respect of property management work carried on by the agent, or

(c) otherwise in connection with--

(i) an assured tenancy of a dwelling-house, or

(ii) a dwelling-house that is, has been or is proposed to be let under an assured tenancy.

(2) Subsection (1) does not apply to--

(a) the rent payable to a landlord under a tenancy,

(b) any fees, charges or penalties which the letting agent receives from a landlord under a tenancy on behalf of another person,

(c) a tenancy deposit within the meaning of section 212(8) of the Housing Act 2004, or

(d) any fees, charges or penalties of a description specified in regulations made by the appropriate national authority.

86 Letting agency work and property management work

(1) In this Chapter "letting agency work" means things done by a person in the course of a business in response to instructions received from--

(a) a person ("a prospective landlord") seeking to find another person wishing to rent a dwelling-house under an assured tenancy and, having found such a person, to grant such a tenancy, or

(b) a person ("a prospective tenant") seeking to find a dwelling-house to rent under an assured tenancy and, having found such a dwelling-house, to obtain such a tenancy of it.

(2) But "letting agency work" does not include any of the following things when done by a person who does nothing else within subsection (1)--

(a) publishing advertisements or disseminating information;

(b) providing a means by which a prospective landlord or a prospective tenant can, in response to an advertisement or dissemination of information, make direct contact with a prospective tenant or a prospective landlord;

(c) providing a means by which a prospective landlord and a prospective tenant can communicate directly with each other.

(3) "Letting agency work" also does not include things done by a local authority.

(4) In this Chapter "property management work", in relation to a letting agent, means things done by the agent in the course of a business in response to instructions received from another person where--

(a) that person wishes the agent to arrange services, repairs, maintenance, improvements or insurance in respect of, or to deal with any other aspect of the management of, premises on the person's behalf, and

(b) the premises consist of a dwelling-house let under an assured tenancy."

Section 87 explains how the duty to publicise fees is to be enforced:-

"**87 Enforcement of the duty**

(1) It is the duty of every local weights and measures authority in England and Wales to enforce the provisions of this Chapter in its area.

(2) If a letting agent breaches the duty in section 83(3) (duty to publish list of fees etc on agent's website), that breach is taken to have occurred in each area of a local weights and measures authority in England and Wales in which a dwelling-house to which the fees relate is located.

(3) Where a local weights and measures authority in England and Wales is satisfied on the balance of probabilities that a letting agent has breached a duty imposed by or under section 83, the authority may impose a financial penalty on the agent in respect of that breach.

(4) A local weights and measures authority in England and Wales may impose a penalty under this section in respect of a breach which occurs in England and Wales but outside that authority's area (as well as in respect of a breach which occurs within that area).

(5) But a local weights and measures authority in England and Wales may impose a penalty in respect of a breach which occurs outside its area and in the area of a local weights and measures authority in Wales only if it has obtained the consent of that authority.

(6) Only one penalty under this section may be imposed on the same letting agent in respect of the same breach.

(7) The amount of a financial penalty imposed under this section--

(a) may be such as the authority imposing it determines, but

(b) must not exceed £5,000.

(8) Schedule 9 (procedure for and appeals against financial penalties) has effect.

(9) A local weights and measures authority in England must have regard to any guidance issued by the Secretary of State about--

(a) compliance by letting agents with duties imposed by or under section 83;

(b) the exercise of its functions under this section or Schedule 9.

(10) A local weights and measures authority in Wales must have regard to any guidance issued by the Welsh Ministers about--

(a) compliance by letting agents with duties imposed by or under section 83;

(b) the exercise of its functions under this section or Schedule 9.

(11) The Secretary of State may by regulations made by statutory instrument--

(a) amend any of the provisions of this section or Schedule 9 in their application in relation to local weights and measures authorities in England;

(b) make consequential amendments to Schedule 5 in its application in relation to such authorities.

(12) The Welsh Ministers may by regulations made by statutory instrument--

(a) amend any of the provisions of this section or Schedule 9 in their application in relation to local weights and measures authorities in Wales;

(b) make consequential amendments to Schedule 5 in its application in relation to such authorities."

The system of financial penalties for breaches of section 83 is set out in Schedule 9 to the 2015 Act:-

"**SCHEDULE 9**

DUTY OF LETTING AGENTS TO PUBLICISE FEES: FINANCIAL PENALTIES

Section 87

Notice of intent

1

(1) Before imposing a financial penalty on a letting agent for a breach of a duty imposed by or under section 83, a local weights and measures authority must serve a notice on the agent of its proposal to do so (a "notice of intent").

(2) The notice of intent must be served before the end of the period of 6 months beginning with the first day on which the authority has sufficient evidence of the agent's breach, subject to sub-paragraph (3).

(3) If the agent is in breach of the duty on that day, and the breach continues beyond the end of that day, the notice of intent may be served--

(a) at any time when the breach is continuing, or

(b) within the period of 6 months beginning with the last day on which the breach occurs.

(4) The notice of intent must set out--

(a) the amount of the proposed financial penalty,

(b) the reasons for proposing to impose the penalty, and

(c) information about the right to make representations under paragraph 2.

Right to make representations

2

The letting agent may, within the period of 28 days beginning with the day after that on which the notice of intent was sent, make written representations to the local weights and measures authority about the proposal to impose a financial penalty on the agent.

Final notice

3

(1) After the end of the period mentioned in paragraph 2 the local weights and measures authority must--

(a) decide whether to impose a financial penalty on the letting agent, and

(b) if it decides to do so, decide the amount of the penalty.

(2) If the authority decides to impose a financial penalty on the agent, it must serve a notice on the agent (a "final notice") imposing that penalty.

(3) The final notice must require the penalty to be paid within the period of 28 days beginning with the day after that on which the notice was sent.

(4) The final notice must set out--

(a) the amount of the financial penalty,

(b) the reasons for imposing the penalty,

(c) information about how to pay the penalty,

(d) the period for payment of the penalty,

(e) information about rights of appeal, and

(f) the consequences of failure to comply with the notice.

Withdrawal or amendment of notice

4

(1) A local weights and measures authority may at any time--

(a) withdraw a notice of intent or final notice, or

(b) reduce the amount specified in a notice of intent or final notice.

(2) The power in sub-paragraph (1) is to be exercised by giving notice in writing to the letting agent on whom the notice was served.

Finally, Schedule 9 provides for appeals, as follows.

Appeals

5

(1) A letting agent on whom a final notice is served may appeal against that notice to--

(a) the First-tier Tribunal, in the case of a notice served by a local weights and measures authority in England, or

(b) the residential property tribunal, in the case of a notice served by a local weights and measures authority in Wales.

(2) The grounds for an appeal under this paragraph are that--

(a) the decision to impose a financial penalty was based on an error of fact,

(b) the decision was wrong in law,

(c) the amount of the financial penalty is unreasonable, or

(d) the decision was unreasonable for any other reason.

(3) An appeal under this paragraph to the residential property tribunal must be brought within the period of 28 days beginning with the day after that on which the final notice was sent.

(4) If a letting agent appeals under this paragraph, the final notice is suspended until the appeal is finally determined or withdrawn.

(5) On an appeal under this paragraph the First-tier Tribunal or (as the case may be) the residential property tribunal may quash, confirm or vary the final notice.

(6) The final notice may not be varied under sub-paragraph (5) so as to make it impose a financial penalty of more than £5,000.