



NCN: [2024] UKFTT 829 (GRC)

Appeal Number: FT/SL/2024/0016

Decision given on: 17 September 2024

**First-Tier Tribunal
(General Regulatory Chamber)
SL Standards & Licensing.**

Heard: On the papers on 10 September 2024.

Tribunal Panel: Judge Brian Kennedy KC

Between:

John Anthony Turnbridge

Appellant:

and

The London Borough of Islington

Respondent:

Result: The Appeal is dismissed.

REASONS

Introduction:

- [1]** These Directions relate to an appeal brought against the decision contained in a Penalty Notice (“PN”) dated 1 February 2024 (reference WK/230037598).
- [2]** The PN was served under regulation 41 of the Regulations above for a breach of regulation 27 of the Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015. The financial penalty is: £500

Factual Background:

- [3]** The facts that give rise to the breach are that on 12 November 2014 an assessment was carried out at 65 Amwell Street, London, EC1R 1UR. This assessed the property as having a rating of a G. The property remained let after 1 April 2023 at which time the legal requirement changed, and it became a requirement that

properties let on a non-commercial tenancy were required to have a rating of at least an E.

- [4] On 24 January 2024, 65 Amwell Street, London, EC1R 1UR was assessed and is now rated as a D. Therefore, from the 1 April 2023 until 24 January 2024 the property had been let in breach of the requirement contained in regulation 27.
- [5] Trading Standards is responsible for enforcing the provision of a wide range of legislation which includes the provisions of The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 (hereafter “the regulations”)
- [6] The regulations require that non-domestic premises **must** (our emphasis) be assessed for their energy efficiency and a certificate issued which rates the property in a series of bands from A-G. On 1 April 2023 the regulations provided that all non-domestic properties (subject to a small number of exemptions) could not be let if the property was rated as an “F” or “G”.
- [7] George Moraitis, a Trading Standards Officer from the London Borough of Islington has provided a witness statement in which he avers that on 4 December 2023 he visited the EPC register where I located an entry for 65 Amwell Road, London EC1V, he noted that the property had been assessed on 12 November 2014 and rated as a “G.” He has produced a screen capture of the certificate which he identifies as exhibit GM/1. He carried out a check on the land registry which showed that the freeholder owner of 65 Amwell Road to be JOHN TUNBRIDGE and LUKE WYGAS of 65 Amwell Street, *London* EC1R 1UR and as such were the Landlords of the said premises. Mr Moraitis made a series of checks which led him to believe that 65 Amwell Road was rented out to a shop.
- [8] The regulations provide that a notice may be issued to the landlord of a non-domestic property requiring that they provide certain specified information. The notice is termed a compliance notice which in this case is dated 15 January 2024.
- [9] On 6 December 2023, Mr Moraitis issued the compliance addressed to John Tunbridge and Luke Wygas owing to an error on his part this was addressed to Basement and Ground Floor, 65 Amwell Road. He has produced a copy of the notice and covering letter which he identifies as exhibit GM/2. The compliance notice that was issued granted one month for the landlord to provide copies of the current EPC certificate on the property and a copy of the current lease or tenancy agreement (our emphasis).

- [10] On 10 January 2024 Mr Moraitis noted he had not received a response to the notice. He then visited 65 Amwell Road and saw it was operated by an architect. He spoke with the business owner who confirmed that her landlord was called John, and she agreed to pass on my contact email address to her landlord. He noticed that the address which was rented was 65 Amwell Road rather than specifically the ground floor and basement.
- [11] On 15 January 2024 Mr Moraitis received an email from John Tunbridge confirming that he had visited the tenant. Mr Moraitis responded and attached a revised compliance notice. He has produced a copy of the email: containing John Tunbridge's email, his response, and a compliance notice, and he further produced an email and attachment as exhibit GM/3. Although the requirement to comply with the Regulations rests with the landlord alone, the Respondents did send a letter of advice in January 2023 to those landlords that they believed might fall within scope and a copy of that advice letter sent to the 65 Amwell Street and is enclosed as exhibit AE1.
- [12] On 31 January 2024, Mr Moraitis received an email from Mr Tunbridge providing a copy of an EPC he had received following an assessment of the property carried out on 24 January 2024 and that it is now rated as D. Mr Moraitis has produced the email containing the attached certificate as exhibit GM/4. He noted that whilst Mr Tunbridge had provided a copy of the EPC, he did not provide a copy of the lease in respect of 65 Amwell Road. The Appellant has acknowledged the EPC produced (Certificate Reference Number :5584-0040-7489-3032-2861) was issued on 31 January 2024.
- [13] Accordingly, the facts that give rise to the breach are that on 12 November 2014 an assessment was carried out at 65 Amwell Street, London, EC1R 1UR. This assessed the property as having a rating of an G (Certificate Number: 9990 6993 0384 0260 9050). The property remained let after 1 April 2023, at which time the legal requirement changed, and it became a requirement that properties let on a non-commercial tenancy were required to have a rating of at least an E. From 1 April 2023 landlords must not (our emphasis) continue letting a non-domestic property which is already let if that property has an EPC rating of band F or G. Therefore, the only material and credible evidence before the tribunal is that the relevant property was not compliant on or after the 1 April 2023 and did not become compliant until 31 January 2024.
- [14] There is no dispute on the above the facts and accordingly the appeal must be dismissed.

Brian Kennedy KC

12 September 2024.