



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

Case Reference : **MAN/00FB/HIN/2019/0035**

Property : **54B Queen Street, Withernsea, HU19 2AF**

Applicant : **Mrs Dawn Barrow**

Respondent : **East Riding of Yorkshire Council**

Type of Application : **Housing Act 2004 – Schedule 1 Paragraph 10(1)**

Tribunal Members : **Judge M Simpson.**
Mr P. E. Mountain, FRICS.

Date of Decision and Location : **6 December 2019**
**Beverley Magistrates Court, Champney Road,
Beverley, HU17 9EJ**

Date of Determination : **11 December 2019**

DECISION

Decision:

The Appeal against the Improvement Notice dated 25th July 2019 is refused.

Reasons:

1. Mr and Mrs Barrow are the owners of 54 Queen Street. Withernsea, HU19 2AF. It is an end terrace property divided into 2 flats. The ground floor flat is let to a long established tenant.
2. The upstairs flat (54B) was let on a shorthold tenancy. On 23rd July 2019 it was inspected by Mrs Hilton, the Environmental Health Officer for East Riding County Council. Her inspection revealed that the first and second floor of the house were being occupied by the tenant, including the use of the second floor attic as sleeping space. She identified several defects and hazards, but particularly identified a category 1 hazard in respect of the lack of smoke/fire detectors and an appropriate fire alarm/fire door system.
3. An Improvement Notice was promptly served and was in full and correct form. It set out the hazard, explained the terminology and gave appropriate reasons for the decision to proceed by way of Improvement Notice rather than alternative methods of enforcement. It Scheduled the works required to remedy the hazard, with particular reference to BS 5839.
4. The existence of a category 1 hazard has, rightly, never been challenged.
5. The Appeal dated 12 August 2019 was on the basis that the property was only 2 storeys, not three, and therefore the legislation under which the notice was given did not apply. The appellants' case was based on the assertion that the tenancy agreement in respect of 52B excluded the attic and the tenant had wrongly forced entry to utilise the 3rd floor. The tenancy agreement was not, and has not since been, produced.
6. The local authority's case is based on Mrs Hilton's evidence and the extensive photographs taken at the time of her inspection.
7. The Tribunal inspected the property on Friday 6th December 2019, prior to the hearing at Beverley Magistrates Court. By that date the tenant had vacated and the flat was being occupied by Mrs Barrow. The hazard defects identified in the Notice had not yet been rectified. Access to the attic rooms, served by lighting and Velux windows was available.
8. At the hearing Mr Barrow represented himself and his wife. Mrs Hilton presented the Respondents' case.

9. Mr Barrow implicitly accepted the existence of the category 1 hazard. He confirmed that he was on the verge of contracting with a joiner and electrician to carry out the necessary works, although he had an issue as to the precise extent of the works needed to comply with BS5839.
10. The original basis of appeal was abandoned upon him accepting, as a matter of fact, that at the time of Mrs Hilton's inspection and the Notice of 25th July, 52B was occupied on the first and second floor.
11. The basis of his Appeal at the time of the hearing was that, in the new circumstances, less extensive works than those specified by Mrs. Hilton, would suffice to comply with BS5839. That is a matter to be addressed by Mr. Barrow's electrician, who will be required to certify compliance. The notice does no more and no less than require compliance with an established British Standard, and as such the Notice was clearly valid and the extent of the required works fully justified.

Tribunal Judge M J Simpson.

9th December 2019.