



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

**Case Reference** : **MAN/00UH/HIN/2019/0057**

**Property** : **81 Prospect Street, Lancaster, LA1 3BH**

**Applicant** : **Redland House Property Ltd.**

**Respondents** : **Lancaster City Council**

**Type of Application** : **Housing Act 2004 – Schedule 1, para.10(1)**

**Tribunal Members** : **Tribunal Judge Professor Caroline Hunter  
Tribunal Member William Reynolds**

**Date and venue of  
Hearing** : **Determined without a hearing on 21  
December, 2020**

**Date of Determination** : **21 December 2020**

**Date of Decision** : **15 January 2021**

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**DECISION**

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## **Summary Decision**

1. The Tribunal concludes that the appellant is the person in control of 81 Prospect Street, Lancaster and the improvement notice is confirmed.

## **Background**

2. On 11 December 2019, Lancaster City Council (the council) served an improvement notice, under the Housing Act 2004 (the 2004 Act) on the appellant, Redland House Property Ltd. The notice concerned a tenanted house: 81 Prospect Street, Lancaster (the property).
3. Any person on whom an improvement notice has been served may appeal to the Tribunal: the 2004 Act, Schedule 1, para. 10(1). The appellant appealed against notice to the Tribunal on the 23 December 2019. The basis of the appeal was that the person served the notice – the applicant - was not the appropriate person.
4. Directions were made on 2 March 2020. There was some delay while the applicant sought information on accepting submissions of evidence via email. The submissions and evidence from both parties were sent to the Tribunal in July 2020.
5. The Application was listed to be determined on the papers alone and without an inspection of the Property.

## **The Law**

6. The 2004 Act requires local authorities to serve an improvement notice in the case of a dwelling “on the person having control of the dwelling”: the 2004 Act, Schedule 1, para. 2.
7. Section 263 of the 2004 Act defines the “person having control of the dwelling” as follows:
  - (1) In this Act “*person having control*”, in relation to premises, means (unless the context otherwise requires) the person who receives the rack-rent of the premises (whether on his own account or as agent or trustee of another person), or who would so receive it if the premises were let at a rack-rent.
  - (2) In subsection (1) “*rack-rent*” means a rent which is not less than two-thirds of the full net annual value of the premises.
8. Under the 2004 Act, Schedule 1, para.15 the appeal against an improvement notice is by way of a re-hearing and the Tribunal can take into account matters that the council were not aware of. The Tribunal may confirm, quash or vary the notice.

## **Submissions**

9. The submission of the appellant is very simple: it was the headlease holder of the property and had let it on a shorthold tenancy, which expired on 28 June 2019. The tenant was on notice to quit from this date. The appellant’s lease subsequently ended and the property reverted to the owner, before the notice was served.
10. The appellant submits that the owner of the property would not renew the lease to the appellant for the reason that he was selling the property as he is recovering

from a stroke. A sale was agreed and was in the conveyancing process since even before the notice was served. Accordingly, the appellant submits that it was not the person in control on 11 December 2019. The Tribunal notes that no supporting evidence for this claim has been submitted by the appellant and that the appeal form includes a statement identifying that where one of the grounds of appeal is that another person ought to take the action concerned or ought to contribute to the cost then confirmation is required as to whether a copy of the application has been served on another person. The appeal form has been completed by the appellant confirming that no such copy has been served.

11. The council has provided the following evidence to refute the appellant's claim:
  - a. The tenancy agreement between the tenant and the appellant for the property;
  - b. Extract from Companies House website relating to the appellant;
  - c. Statement from the tenant's bank setting out payments of monthly rent made to the appellant between December 2019 and May 2020.
12. The council submits, given the evidence, that the appellant was and continues to be the proper recipient of any improvement notice for the property.

### **Decision**

13. The appellant has not provided any evidence for its claim. In the light of the council's evidence the Tribunal concludes that appellant is the person in control of 81 Prospect Street, Lancaster and the improvement notice is confirmed.

### **Rights of appeal**

14. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application to the First-tier Tribunal at the Regional Office, which has been dealing with the case.
15. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.
16. If the person wishing to appeal does not comply with the 28 day time limit, that person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.
17. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.

**Judge C Hunter**  
**15 January 2021**