

4 July 2024

Housing Ombudsman Service

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Complaints Team
Arun District Council
Civic Centre
Maltravers Road
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BN17 5LF

Dear Complaints Team

Complaint: [REDACTED]

I am writing to explain the Housing Ombudsman's role following our assessment of this case.

Complaint

The resident has complained about:

- The landlord's response to concerns about disrepair at the start of the tenancy.

Jurisdiction decision

What we can and cannot consider is called the Ombudsman's jurisdiction and is governed by the Housing Ombudsman Scheme. The Ombudsman must determine whether a complaint comes within their jurisdiction.

Having reviewed the information provided to this Service, I have decided that the Ombudsman cannot investigate this complaint.

Background

The resident completed a webform for this service on 26 June 2023 setting out issues with the property including an unscrewed pipe collar, shower flooding, sewer flooding, drainage smells, and indicating that the property was not checked properly before his tenancy commenced.

The resident subsequently provided a copy of the landlord's stage 1 and stage 2 complaint responses dated 24 January 2023 and 5 April 2023. The accompanying email set out that the complaint was mostly about disrepair prior to occupation as well as referencing an issue with a water tank and surrounding insulation.

This service contacted the resident on 10 October 2023 explaining that the landlord's responses suggested the dispute related to disrepair over a 4-year period and intimidation. The resident responded the same day saying the focus of the complaint was disrepair at the start of the tenancy and for a while thereafter.

Having been allocated the case, I found that issues relating to the condition of the property when let were unlikely to come within our jurisdiction because of the delay in the resident making his complaint. This was because the tenancy commenced around March 2020 with the complaint not being made until January 2023.

Rather than simply determine that the case is outside of our jurisdiction, I adopted an inquisitive approach in making an evidence request on 20 March 2024 for a potential investigation. This was because the resident had previously indicated that disrepair persisted.

The resident responded on 21 March 2024 explaining that he was only complaining about disrepair at the start of his tenancy and not any period thereafter. The resident also indicated that he did not make his complaint until January 2023 because of previous housing experiences, health issues, and the Covid-19 pandemic.

Reason

This service deems 12 months a reasonable period within which a resident should make a complaint about an issue's occurrence. While we have discretion to accept complaints made outside this period when presented with mitigating circumstances, we must consider those circumstances in the context of the length of the delay.

In this instance, I note and fully appreciate the reasons given by the resident for the delay, but the fact it took nearly 3 years for the resident to make the complaint outweighs any mitigating circumstances. The following paragraph of the scheme applies:

Paragraph 42(c) sets out that the Ombudsman may not consider complaints which, in the Ombudsman's opinion 'were not brought to the attention of the member as a formal complaint within a reasonable period which would normally be within 12 months of the matters arising'.

The resident has been very clear that the only issue for investigation relates to the condition of the property around the start of the tenancy and it has been found that this issue does not come within our jurisdiction to investigate in line with 42(c) of the scheme.

You can request a review of this decision if you have new evidence or can challenge the evidence that the decision has relied on. You should make sure that we receive any information within 3 weeks of this decision. Your request will be considered by a senior member of staff.

To find out how we use your personal data together with your rights under the Data Protection Act 2018 go to www.housing-ombudsman.org.uk/about-us/your-data/

Yours sincerely

[REDACTED]

Dispute Examiner