

July 2020

Safety first in residential tenancies

Residential landlords of Assured Shorthold Tenancies will be aware of the increasing amount of legislation that has been put in place over the years to ensure that the properties they rent are safe for occupation by tenants. One element, in particular, is that the tenant must be provided with the gas safety certificate in accordance with regulation 36 of the Gas Safety (Installation and Use) Regulations 1998.

It is useful to have a reminder to ensure that you do not fall foul of the law, especially if you, as a landlord, need to serve a Section 21 Notice to bring the tenancy to an end.

Whilst regulation 36(6)(a) of the Gas Safety Regulations requires that a landlord will, within 28 days of the gas safety check, provide a copy of the certificate to the tenant, there has been some confusion, as the Assured Shorthold Tenancy Notices and Prescribed Requirements (England) Regulation 2015 appeared to disregard the requirement to comply within the 28 days.

This had resulted in uncertainty as to whether or not a landlord could remedy a breach if it did not provide the gas safety certificate within the prescribed 28 days. The recent Court of Appeal case of *Treacarrell House Ltd v Rouncefield* has provided some clarity of the rules on the provision of a gas safety certificates and the service of Section 21 Notices.

If the tenant is not already in occupation, then the tenant should be given the current safety certificate prior to taking occupation. Following the annual gas safety inspection that a landlord should undertake, a tenant should be given a copy of the gas safety certificate, within 28 days of that inspection.

If, for some reason, the landlord has failed to provide the gas safety certificate prior to occupation by the tenant, it was questioned whether or not a Section 21 Notice could be served to gain possession in the future. In the case of *Treacarrell*, the Court of Appeal ruled on the 18th June 2020, that as long as the landlord provides the tenant with a copy of a gas safety certificate that is in force before the tenant went into occupation and then provided a copy of any further certificates following additional inspections prior to serving the Section 21 Notice, this would then enable the landlord to serve a Section 21 Notice.

Whilst this case is helpful to many landlords, compliance with the Gas Safety Regulations are, of course, of the utmost importance and we would encourage landlords to ensure that the gas safety inspections are undertaken in accordance with the legislation and, that a gas safety certificate is provided prior to the tenant entering occupation and within 28 days of any future inspection.

If you require any guidance in relation to residential matters, please contact Nicola Stewart, Natalie Walford, Eve Panayides, Anthony Shalet or Aaron Heslop of our Real Estate team for assistance.



Nicola Stewart
Senior Associate
Dispute Prevention & Resolution
nstewart@rooksriders.co.uk
+44 (0)20 7689 7252



Natalie Walford
Associate
Real Estate
+44(0)20 7689 7182
nwalford@rooksriders.co.uk



Anthony Shalet
Partner, Head of Real Estate
Real Estate
+44 (0)20 7689 7143
ashalet@rooksriders.co.uk



Aaron Heslop
Associate
Dispute Prevention & Resolution
and Employment
aheslop@rooksriders.co.uk
+44 (0)20 7689 7209



Eve Panayides
Solicitor
Real Estate
+44 (0)20 7689 7139
epanayides@rooksriders.co.uk

Rooks Rider Solicitors LLP
23 Austin Friars
London ■ EC2N 2QP



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