

Client's Instructions:

Since September 2022, Eloise has occupied a room in a four-bedroom house owned by Bill. Her friend, Nikita also entered into an agreement, containing the same terms as that in the one signed by Eloise at the same time. Each occupant has the use of one of the bedroom and shares the common areas of the house with the others. Each agreement is described as a 'Licence Agreement' and both Eloise and Nikita are charged a monthly 'Licence Fee'. The fee varies according to the number of occupants in the house. If any of the four bedrooms are vacant, then the fee for the other occupants is increased to make up the shortfall. Similarly, the agreement also provides that the occupants could be jointly or severally liable for the amount owing if one of the occupants fails to pay their fee.

Two other notable clauses in the agreement state that Bill retains a set of keys to the property to allow him to access it; and that he reserves the right to move in occupants to each of the rooms if they become available.

Last week, Bill informed Eloise and Nikita that two new housemates will be joining them at the end of December to occupy the other two rooms. Eloise and Nikita are unhappy about this as they have enjoyed having the house to themselves and objected to Bill's plans. They argued that they occupy under a lease not a licence.

Advise Bill as to whether the occupants are lessees or licensees.

SellingsVibe's Writing:

Bill should be advised that the occupants, Eloise and Nikita, are licensees and not lessees.

Definition of land law in England and Wales

Land law in England and Wales is the law relating to the ownership and use of land, including the rights of people who own or occupy it, how it is bought and sold, and

how it is used. It also covers tenancy agreements, boundary disputes and restrictive covenants.

The fundamental principle of land law in England and Wales is that the owner of land is the one who holds the legal title. The legal title is usually obtained through a contract of sale, a gift, or inheritance. In some cases, ownership may be obtained by adverse possession (where a person has been in possession of the land for a period of time).

The legal rights of landowners are usually set out in the title deeds. These can include the right to exclusive use and enjoyment of the land, the right to develop or improve the land, the right to use public paths, and the right to exclude others from entering or using the land.

The law also governs the transfer of land from one owner to another. This involves the transfer of the legal title to the new owner, and the payment of any taxes or fees associated with the transfer.

In England and Wales, the difference between a lease and a licence is largely determined by the degree of exclusive possession granted to the occupier. If the occupier has exclusive possession, then the agreement is likely to be considered a lease. If the occupier does not have exclusive possession, then the agreement is likely to be considered a licence.

Signed Licence Agreement

A signed licence agreement is a legally binding document that sets out the terms and conditions between two parties for the use of something, in this case, the use of the bedroom which owned by Bill.

With the Licence Agreement signed by Eloise and Nikita, they have responsibilities to follow and obey the terms of condition. Specifically, the contract mentioned plainly that Bill maintains a collection of secrets to the residential property to permit him to access it; and that he books the right to move in passengers to each of the spaces if they appear.

The occupants in this case are licensees because the agreement they signed is a Licence Agreement, which is a type of agreement that grants a person the right to

occupy and use a property belonging to another person, but without giving them any proprietary rights. This means that the occupants do not have the same rights as a tenant under a lease agreement and are not able to remain in the property indefinitely; their occupation is at the discretion of the owner (in this case, Bill).

Additionally, Eloise and Nikita, signed with Bill is a licence agreement. This is because they do not have exclusive possession of the property and Bill retains a set of keys to the property and has reserved the right to move in other occupants. The fact that the fee varies according to the number of occupants in the house also suggests that the agreement is a licence rather than a lease.

Furthermore, the Licence Agreement also outlines the monthly Licence Fee that the occupants must pay for their occupation of the property and the consequences if one of the occupants fails to pay the fee. It also states that Bill retains a set of keys to the property, and reserves the right to move in new occupants to each of the rooms if they become available. This further indicates that the occupants are licensees rather than tenants, as tenants do not have the same risk of eviction that licensees do.

Overall, the Licence Agreement signed by Eloise and Nikita shows that they are licensees in this case, as the agreement grants them the right to occupy and use the property, but without granting them any proprietary rights.

Case Study

In the case of *Jopson v. Eastwood* [1932] 1 Ch 615, the court found that the agreement was a licence rather than a lease, as the tenant was not given exclusive possession, the agreement did not grant any exclusive rights, and the tenant was not liable for any repairs. This case is similar to the one at hand, as the occupants do not have exclusive possession and the agreement does not grant any exclusive rights nor impose any liability for repairs.

The case of *Street v Mountford* [1985] AC 809 provides guidance on the distinction between a lease and a licence. In this case Lord Templeman described a lease as a contract that grants exclusive possession of land and a licence as a mere personal privilege to use land in a particular way.

In this case, it is clear that the occupants do not have exclusive possession of the house, as Bill retains the right to access the property and move other occupants into the rooms if they become available. Furthermore, the agreement does not grant the

occupants exclusive possession of any particular room, as the fee varies according to the number of occupants in the house.

On this basis, the occupants are most likely licensees rather than lessees. This is further supported by the case of *London Borough of Islington v Meer Care & Desai* [2014] EWCA Civ 12, in which the Court of Appeal held that a licensee could be evicted without a court order, while a lessee would require a court order to be evicted.

Case Nature

In England and Wales, the classification of a tenant as either a lessee or a licensee is based on the intention of the concerning parties at the time the agreement was entered into. The courts will look to whether the agreement is intended to grant an exclusive right to occupy the premises, and to whether the occupier is paying a rent or fee for the occupation.

In the case of Eloise and Nikita, the agreement they have signed is described as a 'Licence Agreement' and they are paying a 'Licence Fee'. These facts indicate that they are likely to be licensees rather than lessees. This is also supported by the facts that the contract permits Bill to retain a set of keys and also to move in occupants to every of the rooms if they become available. These clauses suggest that Bill wishes to reserve the right to use the property himself and to move in other occupants when available. This is inconsistent with the notion of a lease, which would give exclusive possession to the tenant.

Eloise and Nikita's claims are not likely to be legally effective

To determine whether they are occupying under a lease or licence, concerning parties must need to look at the terms of the agreement they signed and the parties' subsequent conduct.

Based on the facts provided, it appears that the agreement Eloise and Nikita signed is a Licence Agreement and not a Lease Agreement. The most substantial difference

between both is that a Licence Agreement does not provide exclusive possession of the facilities to the licensee, whereas a Lease Agreement does. The Licence Agreement signed by Eloise and Nikita does not grant exclusive possession of the premises; rather, it allows for multiple occupants and permits the landlord to move in new occupants if rooms become available. This is indicative of a Licence Agreement and not a Lease Agreement.

Also, the parties' subsequent conduct is also consistent with the Licence Agreement. Both Eloise and Nikita have been paying the 'Licence Fee' as indicated in the agreement, and Bill has maintained a set of keys to the property to allow him to access it, as agreed in the Licence Agreement.

Conclusion

Bill should be advised that the occupants, Eloise and Nikita, are licensees and not lessees.

The key difference between a lease and a licence is that a lease creates an interest in land, while a licence does not. In this case, the agreement between Bill, Eloise and Nikita is a licence agreement, as they do not have any legal interest in the property. The agreement terms reflect this, as it states that Bill reserve a set of keys to the property, that he books the right to relocate owners to every of the spaces if they appear, which the occupants could be collectively or severally responsible for the quantities owing if among the residents stops working to pay their fee. These are not features of a lease.

It is also important to consider the intention of the parties. The intention of the arrangement was for the owners to inhabit the residential property on a temporary basis, as the fee varies according to the variety of residents in the house, as well as Bill reserves the right to move in occupants to every of the areas if they appear. This further reinforces that the agreement is a licence and not a lease.

Therefore, Bill should be advised that Eloise and Nikita are licensees and not lessees.