



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

Case reference : **CAM/42UD/MNR/2021/0065**

Property : **132 Foxhall Road Ipswich Suffolk IP3 8HW**

Applicants : **Mr Shanmuganathan Sivapalan and Mrs Anusha Sivapalan**

Respondents : **Birch Property Consultants**

Application : **Application for permission to Appeal**

Tribunal members : **Mary Hardman FRICS IRRV(Hons)**

Date of Decision : **9 March 2022**

DECISION REFUSING PERMISSION TO APPEAL

Decision

1. The tribunal has considered the Respondent's request for permission to appeal dated 2 March 2022 and determines that:
 - a. it will not review its decision; and
 - b. permission be refused.
2. In accordance with section 11 of the Tribunals, Courts and Enforcement Act 2007 and rule 21 of the Tribunal Procedure (Upper Tribunal) (Lands Chamber) Rules 2010, Birch Property Consultants may make further application for permission to appeal to the Upper Tribunal (Lands Chamber). Such application must be made in writing and received by the Upper Tribunal (Lands Chamber) no later than 14 days after the date on which the First-tier Tribunal sent notice of this refusal to the party applying for permission to appeal.
3. Where possible, any further application for permission to appeal should be sent **by email** to Lands@justice.gov.uk, as this will enable the Upper Tribunal (Lands Chamber) to deal with it more efficiently. Alternatively, the Upper Tribunal (Lands Chamber) may be contacted at: 5th Floor, Rolls Building, 7 Rolls Buildings, Fetter Lane, London EC4A 1NL (tel: 020 7612 9710).

Original Application

4. The Original Application was made on 23 November 2021 for the determination of a market rent under Section 14(1) of the Housing Act 1988 by Mr Shanmuganathan Sivapalan and Mrs Anusha Sivapalan the tenants, following service of a notice in the prescribed form by the landlord on 15 November 2021.
5. The landlord's notice proposed a new rent of £797.50 per calendar month to be effective from **1 January 2022**. This was in lieu of the £725 per month.
6. The tenancy agreement provided by the Respondent was dated 31 May 2012 between the Landlord, Mr C Ashman and the Tenants, Mr Shanmuganathan Sivapalan and Mrs Anusha Sivapalan .
7. The Agreement was stated to be for a term of 6 months commencing **31 May 2012** at a commencement rent of £650 per calendar month. At paragraph 1 of the Agreement, it is stated that the first rent payment shall be made on the date of signing the tenancy agreement, 31 May 2012 and thereafter, payments are due on the 19th day of each month.
8. The Tribunal determined that the Tribunal did not have jurisdiction to determine the rent, because the landlord's notice under Section 13 (2) was not validly served.
9. It is a requirement that the proposed new rent must start at the beginning of a period of the tenancy – and as set out in paragraphs 5 and 7 above it did not.

Reasons for the decision

10. Birch Property Consultants grounds of appeal are not altogether clear, referring to the rent payable date of 19th as both 'not and error but clearly an oversight' and subsequently referring to an 'error'.
11. However, ultimately, they are appealing the decision of the tribunal in respect of its finding that it does not have jurisdiction to determine the rent.
12. The tribunal has no discretion in respect of the requirement that the proposed new rent must start at the beginning of a period of the tenancy for the notice to be valid. It does not, and the tribunal does not have jurisdiction
13. It has decided not to review its Decision and refuses permission to appeal to the Upper Tribunal because it is of the opinion that there is no realistic prospect of a successful appeal in this case.
14. The tribunal will correct the error in the proposed rent amount in paragraph 15 under Rule 50 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013.

Mary Hardman
Regional Surveyor
9 March 2022

ANNEX - RIGHTS OF APPEAL

As the application for permission to appeal the decision is refused, an application for permission to appeal against that refusal may be made to the Upper Tribunal under the Tribunals, Courts and Enforcement Act 2007, the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 and The Tribunal Procedure (Upper Tribunal) (Lands Chamber) Rules 2010. An application to the Upper Tribunal (Lands Chamber) for permission must be made within **14 days** of the date on which the First-tier Tribunal sent you the refusal of permission.