



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

Case reference : **LON/00AY/MDR/2022/0003**

Property : **Flat 3, 340 Brixton Road, London, SW9
7AA**

Applicant : **Mr Ocampo**

Landlord : **Lexagon Limited**

Type of application : **Decision in relation to section 22(1) of
the Housing Act 1988**

Tribunal members : **Mr I B Holdsworth FRICS MCI Arb**

Date of decision : **22 March 2022**

DECISION

The Tribunal does not have jurisdiction to determine this application for the reasons stated below

This has been a determination on the papers which has been consented to/not objected to by the parties. A face-to-face hearing was not held, because all issues could be determined on paper and there was no request for a hearing. We considered various documents that are detailed in the Decision below. The order made is described at the end of these reasons. There was no objection from either party in proceeding in this manner.

Decision:

The Tribunal does not have jurisdiction to determine this application for the reasons stated below.

Background and issues:

1. The tribunal received an application under section 22 of the Housing Act 1988 (**'the Act'**) on 7th February 2022. The case was reviewed by the Tribunal and it was identified that the application referred to an assured shorthold tenancy which commenced on 30th March 2021.
2. The tribunal wrote to the parties on 25th February 2022, to explain that an application may only be made to tribunal to determine a rent under an assured shorthold tenancy during the first six months after the commencement of the tenancy.
3. The parties were asked to respond to this initial Opinion on whether the tribunal had jurisdiction in this matter. No response was received from either party.

The law:

4. The statutory provisions relating to the reference by a tenant of “excessive rents” to a Rent Tribunal for determination are contained in section 22 of the Act. The Act states that:
 - 1) *“The tenant under an assured shorthold tenancy may make an application in the prescribed form to the Rent Tribunal for a determination of the rent which in the Rent Tribunal’s opinion the landlord might be reasonably be expected to obtain under the assured shorthold tenancy*
 - 2) *No application may be made under this section if-*
 - (aa) *the tenancy is one to which section 19A applies and **more than 6 months have elapsed since the beginning of the tenancy**”*
5. By Section 19 A of the Act tenancies to which section 22 applies are defined as assured shorthold tenancies created after 28th February 1997

Facts found:

6. The tenant's assured shorthold tenancy agreement commenced on 30th March 2021. The application to tribunal is made on 7th February 2022.

7. The tenancy of the property commenced after the 28th February 1997.

Reasons for the decision:

8. This assured shorthold tenancy created after 28th February 1997 is subject to section 19a of the Act. A tenant of an assured shorthold tenancy subject to section 19a of the Act may only make a valid application to tribunal to review excessive rent during the period six months from the commencement of the tenancy.
9. This application to tribunal is made on 7th February 2022 **some 10 months after the tenancy commenced and is out of time**. The statutory timetable for making a valid rent determination application to tribunal cannot be varied by tribunal.
10. The tribunal therefore has no jurisdiction to determine the rent.

Name: Ian Holdsworth **Date:** 22 March 2022
Valuer Chairman

Rights of appeal

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the Tribunal is required to notify the parties about any right of appeal they may have.

If a party wishes to appeal this Decision to the Upper Tribunal (Lands Chamber), then a written application for permission must be made to the First-tier Tribunal at the regional office which has been dealing with the case.

The application for permission to appeal must arrive at the regional office within 28-days after the Tribunal sends written reasons for the Decision to the person making the application.

If the application is not made within the 28-day time limit, such application must include a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed, despite not being within the time limit.

The application for permission to appeal must identify the Decision of the Tribunal to which it relates (ie, give the date, the property and the case number), state the grounds of appeal and state the result the party making the application is seeking.

If the Tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).