



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

Case reference : **MAN/00BN/MNR/2021/0061**

Property : **36 Kirkmanshulme Lane, Manchester,
M21 4WA**

Applicant : **John Skelton (Tenant)**

Representative : **Robert Skelton**

Respondent : **Nahid Ahmed (Landlord)**

Representative : **Mrs Maureen Pegler, Proper Lettings**

Type of application : **Decision in relation to section 13 of the
Housing Act 1988**

**Tribunal
member(s)** : **Judge J O White
Valuer Ms S Latham**

Venue : **Property Chamber, Northern
Residential Property first-tier Tribunal,
1st floor, Piccadilly Exchange, 2
Piccadilly Plaza, Manchester, M1 4AH**

Date of decision : **24 May 2022**

DECISION

Decision:

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

Background:

1. On 24 June 2021 Nahid Ahmed sent a notice of rent increase to John Skelton. On 6 July 2021, Robert Skelton made an application under section 13 of the Housing Act 1988 (the Act), disputing the increase and asking the tribunal to assess the market rent.
2. On 14 July 2021 the tribunal wrote to the parties stating that the notice proposing a rent increase may be defective, as it does not appear to take effect at the commencement of a new period of the tenancy and asking the parties if they wished to request a hearing, otherwise the tribunal was satisfied the preliminary issue could be determined on the papers. The tenant requested a hearing. The landlord did not respond.

The law:

3. The tribunal must strike out an application in accordance with Rule 9(2)(a) of the Tribunal Procedure (First Tier Tribunal) (Property Chamber) Rules 2013 if it does not have jurisdiction to determine an application. Alternatively, Rule 9(2)(b) gives it the power transfer the matter to another court if they do have jurisdiction in accordance with 6(n).
4. A landlord must service any notice to increase rent, in accordance with S13(2) Housing Act 1988 (the Act) as amended if the tenancy is an assured periodic tenancy. The notice of increase must be in the prescribed form in accordance with S13(2) of the Act. The prescribed form is "Form 4 Landlord's Notice proposing a new rent under an Assured Periodic Tenancy of premises situated in England". The date the new rent is to take effect must be the beginning of a new period of the tenancy and this must be correctly specified in the notice. The notice period for the increase cannot be less than the minimum period set out in s13(3). In the case of a weekly or monthly tenancy this cannot be less than a month.
5. On receipt of the prescribed notice and before the beginning of the increase in rent a tenant may make an application to this tribunal in accordance with 13(4) of the Act. This application to determine a market rent is to be heard by the tribunal in accordance with s14 of the Act.
6. Rent can only otherwise be increased by virtue of any rent review clause in the tenancy or varied by agreement between the landlord and tenant as set out in s13(5) of the Act.

The hearing:

7. On 24 May 2022, the tenant's brother and representative attended an oral hearing with his sister. The landlord did not attend.
8. The tribunal found the facts set out below. These were not in dispute. The landlord had made no representations. The tribunal was able to make an oral determination for the reasons set out below.

Facts found:

9. In around 1976, John Skelton's father became the protected tenant of 36 Kirkmanshulme Lane, Manchester, M21 4WA (the Property). On 24 March 2006 John Skelton became the tenant, by way of succession, on the death of his father. He has resided at the Property ever since. There are no services provided. The Property is unfurnished. There is no written tenancy agreement.
10. The landlord is Nahid Ahmed. He completed the prescribed Form 4 dated 24 June 2021, proposing a new rent of £1150 per month from 4 August 2021. The current rent is £540 per month. The last rent increase was on 24 July 2017.

Reasons for the decision:

11. It is not in dispute that John Skelton is an assured periodic tenant. He was a family member of a regulated tenant who had resided at the Property for at least two years before the death of his father. As such s13 of the Act applies.
12. By Section 13 (2) and (3)(c) the new rent is to take effect at the beginning of a new period of the tenancy, not earlier than the period in the tenancy, which in this case is one month. As the prescribed form is dated 24 June 2006 and the tenancy start date is 24 March 2006, the start date of 4 August 2021 is not "the beginning of a new period" as required by the Act and so is invalid.
13. The tribunal only has jurisdiction to determine an application to assess the market rent if the notice to increase rent is a valid one under s13 of the Act. As the notice is defective the proposed increase in rent cannot be a valid increase. Consequently, the tribunal has no jurisdiction to determine the application to assess a market rent or to transfer it to another court.
14. In accordance with 13(4) of the Act the rent remains at £540 per calendar month. It can only be altered by agreement or by a subsequent valid notice; that can in turn be determined by the tribunal following any new application.

Name: Judge White

Date: 27 May 2022

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 (i.e. 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).