



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

Case reference : **MAN/00BN/MNR/2021/0147**

Property : **Flat 61, Langham Court, Mersey Road,
M20 2QA**

Applicant : **Joseph Kennett (Tenant)**

Representative :

Respondent : **Langsam Estates (Landlord)**

Representative :

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 : **P(Paper)
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 11 August 2021, the landlord sent a notice of rent increase to Joseph Kennett. On 16 September 2021, Joseph Kennett 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 23 September 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 landlord responded stating that they agreed to a paper determination and made written submissions.

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.

Facts found:

7. On 6 February 2020 Joseph Kennett entered a 6-month fixed term tenancy, which came to an end on 5 August 2020. Since that time, he has been an assured periodic tenant of Flat 61, Langham Court, Mersey Road, M20 2QA. The rent due is £800 per month, starting on 6 February 2020.
8. In March 2020, the tenant had requested that he pays his rent on 24th of each month. On 24 March 2020 he made a payment of £1273.40, being the shortfall between the 6th and 24th and the current rent in advance. Thereafter he has paid his rent on 24th of each month. It is paid in advance.
9. On 11 August 2021, the landlord completed Form 4 , proposing a new rent of £900 per month, effective from 24 September 2021. The notice is defective and therefore the rent increase is not valid.

Reasons for the decision:

10. It is not in dispute that Joseph Kennett as an assured periodic tenant. As such s13 of the Act applies. The landlord has made submissions that because, the tenant pays his rent on 24th of each month, which should be the date of the rent increase. Joseph Kennett has not made any written submissions.
11. 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 11 August 2021 and the tenancy start date is 6 February 2020, the start date of 24 September 2021 is not “the beginning of a new period” of the tenancy, as required by the Act and so is invalid. The changing of the date for payment of rent does not alter the period of the tenancy that started on the 6th.
12. 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.
13. In accordance with 13(4) of the Act the rent remains at £800 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: 24 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).