



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

Case reference : **CAM/38UE/MNR/2022/0027**

HMCTS code : **P:PAPERREMOTE**

Property : **10 Fawkner Way, Stanford in the
Vale, Faringdon, Oxfordshire, SN7
8FF**

Applicant : **Darryl J Lee**

Respondents : **Sovereign Housing Association
Limited**

Type of application : **Section 14 of the Housing Act 1988
(the Act) Determination of market
rent payable.**

Tribunal member(s) : **Mary Hardman FRICS IRRV(Hons)**

Date of decision : **20 June 2022**

DECISION

HMCTS code: description of hearing

This has been a hearing on the papers which has been consented to by the parties. The documents that I was referred to are in individual responses produced by the Applicant and the Respondent. I have noted the contents and my decision is below.

Background

1. On 18 March 2022 the Applicant, the Tenant of 10 Fawkner Way, Stanford in the Vale, Faringdon, Oxfordshire, SN7 8FF (The Property) , made to the Tribunal an Application (the Application) referring a notice of increase in rent (the Notice) by the Landlord of the Property under Section 13 of the Housing Act 1988.
2. The Notice is dated 8 March 2022 and proposed a new rent of £145.21 per week instead of the existing rent of £139.49 per week to take effect from 4 April 2022.
3. The Tribunal acknowledged receipt of the Application and issued directions on 13 April 2022.
4. A Procedural Chair then reviewed the bundles submitted by the parties and wrote to both parties to indicate that Tribunal's preliminary opinion was that it may not have jurisdiction to consider the matter because the landlord's notice proposing a new rent may be defective, as less than one month's notice had been given of the increase.
5. The respondent said that an initial notice of the rent increase had been given on 10 January 2022 and whilst subsequently withdrawn they believed that the absence of one month's notice was acceptable.
6. They were informed that if they wished to pursue this argument they should inform the tribunal by 6 June 2022. On 27 May 2022 the respondent wrote to the tribunal, copied to the applicant, accepting that their notice was invalid because an insufficient notice period had been given.
7. The applicant wrote to the tribunal on the same date to say that they wished to continue to contend, as set out in the documentation accompanying their application and submission to the tribunal, that the Tenancy Agreement was not one to which section 13(1) jurisdiction applied. This was because they contended that there was a clause in their Tenancy Agreement '*under which the rent for a particular period of the tenancy will or may be greater than the rent for an earlier period*'.Housing Act 1988 s13(1)(b).
8. They also contended that the minimum notice under section 13(2) had not been given.
9. They also wrote to the tribunal on 30 May 2022, submitting further representations and stating that they no longer wanted a hearing as they had previously requested but were content for the matter to be determined on the papers.

The Law

10. The Tribunal has to be satisfied that it has jurisdiction, by reference to section 13 of the Act, to hear the Application in order to determine a rent under S14 of the Act
11. The Act provides in section 13(1) that the section applies to
 - (a) a statutory periodic tenancy other than one which, by virtue of paragraph 11 or paragraph 12 in Part I of Schedule 1 to this Act, cannot for the time being be an assured tenancy; and*
 - (b) any other periodic tenancy which is an assured tenancy, other than one in relation to which there is a provision, for the time being binding on the tenant, under which the rent for a particular period of the tenancy will or may be greater than the rent for an earlier period.*
12. Section 13(2) as amended by the Regulatory Reform (Assured Periodic Tenancies) (Rent Increases) Order 2003 states that the date in paragraph 4 of the Landlord's notice (the date the new rent becomes payable) must comply with three requirements
13. The first requirement is that a minimum period of notice must be given before the proposed new rent can take effect.
14. The second requirement is that the starting date must not be less than 52 weeks after the date on which the rent was last increased using this procedure although there are exceptions to this.
15. The third requirement is that the proposed new rent must start at the beginning of a period of the tenancy (see paragraph number 17 of the Guidance Notes forming part of the prescribed form of the Landlord's Notice).
16. Section 14 of the Act requires the Tribunal to determine the rent at which it considered the subject property might reasonably be expected to be let on the open market by a willing Landlord under an Assured Tenancy in so doing the Tribunal is required by Section 14 (1) to ignore the effect on the rental value of the property of any relevant tenants' improvements as defined in Section 14 (2) of the Act.
17. Only if a landlord's notice complies with the requirements referred to above does a Tribunal have jurisdiction to determine a rent under section 14 of the Act.

The Tribunal's Decision

18. The applicant argues at some length that certain clauses in the tenancy agreement should be interpreted as meaning that the agreement is such that the exception under section 13 (1) (b) is activated. They also argue that the

tribunal should determine this first, prior to any finding in respect of the invalidity of the landlords notice.

19. The respondent concedes that the notice was invalid but make no argument on the section 13(1) (b) issue.
20. The tribunal does not intend to make a finding on the section 13(1) (b) issue as it has no effect on the outcome of the case before it. Should it find that the tenancy agreement is one to which the section applies, both parties are agreed that the notice is invalid and therefore in the absence of a valid notice of increase the tribunal would have no jurisdiction to determine the market rent.
21. Should it find that the tenancy agreement is one to which the section does not apply then it also has no jurisdiction to determine the market rent.
22. Therefore the application is struck out and the existing rent will continue to be payable.

Mary Hardman FRICS IRRV(Hons)
Regional Surveyor

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).