



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

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

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

**Applicant** : **Darryl J Lee**

**Respondent** : **Sovereign Housing Association Limited**

**Application** : **Application for permission to Appeal**

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

**Date of Decision** : **18 July 2022**

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**DECISION REFUSING PERMISSION TO APPEAL**

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## **Decision**

1. The tribunal has considered the Respondent's request for permission to appeal dated 24 June 2022 and supplementary grounds dated 27 June 2022 and determines that:
  - a. it will not review its decision dated 20 June 2022 : 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, Darryl J Lee 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](mailto: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**

1. The Original Application was made on 18 March 2022 for the determination of a market rent under Section 14(1) of the Housing Act 1988 by Darryl J Lee the tenant, following service of a notice in the prescribed form by the landlord on 8 March 2022.
2. The landlord's notice proposed a new rent of £145.21 per week to be effective from 4 April 2022. This was in lieu of £139.49 per week.
3. The tribunal wrote to the parties to say that the 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.
4. 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 and withdrawing the notice.
5. The applicant wrote to the tribunal on the same date to say that they wished to continue to contend 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).
6. They also contended that the minimum notice under section 13(2) had not been given

7. 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.
8. The tribunal did not make a finding on the section 13(1) (b) issue as it had no effect on the outcome of the case before it. Should it find that the tenancy agreement was one to which the section applied, both parties were agreed that the notice was invalid and therefore in the absence of a valid notice of increase the tribunal would have no jurisdiction to determine the market rent.
9. Alternatively, should it find that the tenancy agreement was one to which the section did not apply then it also had no jurisdiction to determine the market rent.
10. Therefore, the application was struck out.

### **Reasons for the decision**

11. Under rule 9(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 the *'Tribunal must strike out the whole or part of proceedings or case if the Tribunal does not have jurisdiction in relation to the proceedings or case ....'*
12. It is agreed by the parties that the Tribunal does not have jurisdiction to determine the rent.
13. The Tribunal 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 applicant supplementary grounds are in respect of the phrase at paragraph 21 of the decision – 'the existing rent continues to be payable'. The issue of payability was not raised in the original submission and the decision was to strike out. This was merely to give clarity to the parties that the increase did not take effect.
15. It is open to the applicant to make a fresh application to the Tribunal should the landlord serves a further notice under s13.

**Mary Hardman**  
**Regional Surveyor**  
**18 July 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.