

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

Case Reference: : **LON/00AH/MNR/2022/0131**

Property : **159 Delta Point, 35 Wellesley Road, Croydon
CR0 2GX**

Tenant : **Mr Duane Melius**

Representative : **In person (written representations)**

Landlord : **Bracknell Property Limited**

Representative : **Criterion Hospitality (written
representations) of**

Type of Application : **Sections 13 and 14 Housing Act 1988**

Tribunal Member : **Mr John Naylor MRICS, FIRPM
Valuer Chairman**

Date of Decision : **29th January 2023**

DECISION

- (1) The Tribunal does not have jurisdiction to determine this application.
- (2) The Tribunal orders that the application be struck out.

REASONS

The Application

1. On 1 August 2022, the Tribunal received an application from the Tenant, dated 27 July 2022.
2. The application referred to a Landlord's Notice of Increase in relation to 159 Delta Point, 35 Wellesley Road, Croydon, CR0 2GX contained within email correspondence dated 30 June 2022. This proposed increasing the the rent of the subject property from £850 per calendar month to £1,075 per calendar month from [insert day] August 2022.

Background

3. On 21 September 2022 the Tribunal wrote to the parties informing them that a Legal Officer had formed a preliminary opinion that the Tribunal might lack jurisdiction to consider the matter. The reasons given were that:
 - (i) The Tribunal only has jurisdiction on the service of a valid Notice of Increase.
 - (ii) The Landlord's notice proposing a new rent might be defective in this regard as it was not in a valid format.
4. The matter was set down for a preliminary determination relating to jurisdiction determination on papers without an oral hearing, unless either party requested the same. No request for such a hearing was received.
5. Written representations on the matter were sought from the parties by 10 October 2022.
6. Following referral to the Tribunal, the tribunal directed that the submissions on the jurisdictional issue should be received by 16 December 2022.

The Landlord's Case

7. The landlord submitted that the Tribunal had no jurisdiction to hear the application as no valid increase under Section 13(2) had been served upon the Tenant. The landlord submitted that the Tenant's application should be dismissed.

The Tenant's Case

8. By email on 16 September 2022 the tenant submitted that he had only been informed of the proposed increase by email, and that no official notice had been given.

The Law

9. Section 13(2) of The Housing Act 1988 insofar as relevant provides as follows:

For the purpose of securing an increase in the rent under a tenancy to which this section applies, the landlord may serve on the tenant a notice in the prescribed form proposing a new rent to take effect at the beginning of a new period of the tenancy specified in the notice, being a period beginning not earlier than 30th February 2023

Findings

10. The Tribunal found that the landlord had only sent email correspondence relating to a rent increase. No Notice, as prescribed by 13 of the Housing Act 1988 had been sent by the Landlord.
11. The Tribunal therefore found that no valid section 13 notice had been served.
12. Therefore, the Tribunal found that it lacked jurisdiction to consider the application

Disposal

13. Rule 9(2) of the Tribunal Procedure (first-tier Tribunal) (Property Chamber) Rules 2013 provides as follows:

The Tribunal must strike out the whole or a part of the proceedings or case if the Tribunal (a) does not have jurisdiction in relating to the proceedings.

14. Therefore, the Tribunal orders that the application be struck out.

Name: Mr J A Naylor MRICS FIRPM

Date: 29th January 2023

ANNEX – RIGHTS OF APPEAL

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

If a party wishes to 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 with tribunal 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. Any appeal in respect of the Housing Act 1988 should be on a point of law.

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