



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

**Case Reference** : **LON/00BA/MNR/2022/0182  
V:CVPCOURT**

**Property** : **47 Lammas Avenue Mitcham  
Surrey CR4 2LY**

**Applicant** : **Michael Clottey**

**Respondent** : **Ms Khadija Raji**

**Type of Application** : **Decision in Relation to S.13 of the  
Housing Act 1988**

**Tribunal Member** : **Mrs E Flint DMS FRICS  
Mr A Ring**

**Date and venue of  
Hearing** : **10 February 2023  
10 Alfred Place London WC2E 7LR**

**Date of Decision** : **10 February 2023**

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**DECISION**

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

This has been a remote hearing which has been consented to by the parties. The form of remote hearing was V:CVPREMOTE. A face to face hearing was not held because it was not practicable and all the issues could be determined in a remote hearing. The documents that we were referred to are in an unnumbered bundle, the contents of which have been recorded.

## **Background:**

1. The landlord served a Notice of Increase which proposed a new rent of £120 per week with effect from 3 November 2022. The Applicant referred the Notice to the Tribunal on 2 November 2022 on the grounds that it was invalid because the rent was payable on a Monday. The proposed rent did not comply with Note 18 on the guidance notes which form part of the Notice.
2. The room is subject to a weekly tenancy from 8 July 2019, the rent being paid in advance every Monday.
3. The Tribunal requested submissions regarding the validity of the landlord's notice since the new rent did not appear to commence at the start date of a new period of the tenancy.
4. The landlord requested a remote hearing to consider the evidence, the tenant was content for the matter to be dealt with on the papers.

## **The Law:**

5. The statutory provisions requiring the landlord to serve notice on the tenant are contained in section 13 of the Act which is set out below.

## **The evidence**

6. The applicant did not attend the hearing, however the landlord attended by a video link.
7. Ms Raji explained that Mr Clotey had been a tenant since 2019. The rent was £100 per week. They had agreed verbally that he should pay £400 in advance every fourth Monday.
8. Ms Raji said that she had made a mistake in not following the guidance and accepted that the start date of the new rent was incorrect. However, she understood that in such circumstances the Tribunal could start the new rent four weeks later. She pointed out that she had started the process in October and it was now February, she had lost out on several months which would not have been the case if the application had been dealt with earlier.

## **Facts Found**

9. The Notice does not comply with the requirements of section 13 (2) because the new rent does not start at the beginning of a new period of the tenancy.

## **The Tribunal's decision**

10. The Tribunal does not have jurisdiction to deal with the application because the notice of increase was invalid consequently it was of no effect.

11. The Tribunal does not have the power to correct the error in the Notice by substituting a different start date for the new rent. An increase can only be obtained by the landlord issuing a new Notice of Increase which complies with the legal requirements of the Act as set out in the guidance notes attached to the Notice of Increase.

Chairman: Evelyn Flint

13 February 2023

## **Appendix of relevant legislation**

### **Section 13 Housing Act 1988**

#### **Increases of rent under assured periodic tenancies.**

(1) This 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) .....

(2) 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, ....

### **ANNEX - RIGHTS OF APPEAL**

- i. 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.
- ii. 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.
- iii. 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.

- iv. 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.