



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

Case Reference : **LON/OOAM/MNR/2023/0022**

Hearing Type : **By Way of Written Representations**

Property : **Flat 33 Bramfield Court, 50 Queen's Drive,
London, N4 2XH**

Applicant : **Schiffer Cristian Ionut**

Respondent : **Nadine Wilson and Elizabeth McKenzie**

Type of Application : **Section 13 of the Housing Act 1988**

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

Date of Decision : **30 March 2023**

REASONS

- (1) The Tribunal does not have jurisdiction to determine this application for the reasons stated below.
- (2) The Tribunal finds that no valid Section 13 Notice has been served.
- (3) The Tribunal orders that the application be struck out.

REASONS

Background

1. On 13 December 2022 the landlord served a Notice under Section 13(2) of the Housing Act 1988 proposing an increase in the rent of the above property to £750 per calendar month.
2. On 13 January 2023 the tenant made an application to the Tribunal for the determination of a market rent.
3. By way of a letter dated 31 January 2023, the Tribunal wrote to the parties highlighting an issue of jurisdiction advising that they felt that they might not have jurisdiction to determine the matter due to the fact that the landlord's Notice was defective and the parties were given until 14 February 2023 to reply and respond on whether they wished to have this matter heard by way of hearing or written representations.
4. No submissions on this issue were received from either party.
5. On 27 February 2023, on the papers and without a hearing, the Tribunal determined that the Notice dated 13 December 2022 and served by the landlord was, in fact, invalid as it stated that the rent was to increase from 31 January 2023 rather than on an anniversary of the commencement date of a tenancy being 3 April 2018.
6. In light of there being no valid Notice, the Tribunal has no jurisdiction to continue to determine the rent in this matter.

The Law

- 5 Section 13(4) states:
 - a. Where a notice [a notice of increase] is served ...a new rent specified in the notice shall take effect as mentioned in the notice unless before the beginning of the new period specified in the notice,-

- b. “(a) the tenant by an application in the prescribed form refers the notice to [the Tribunal]...”
 - c. In *R. v London Rent Assessment Committee Ex p. Lester* [2003] H.L.R. 787, CA. the Court of Appeal held that Refers in this context means “hands over” and not “sends”. It held that a notice sent by post before the date on which the new rent took effect, but which arrived at the rent assessment committee [the predecessor to the Tribunal] after that date, was ineffective.
7. In relation to the form of a notice, section 13(2) of the Housing Act 1988 provides that 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. The prescribed form is Form D under the Regulatory Reform (Assured Periodic Tenancies) (Rent Increases) Order 2003.

Findings

The Tribunal finds that it has no jurisdiction to consider the notice dated 13th December 2022 as the date stated within the notice as the date of commencement of the new rent does not appear to take effect at the commencement of a new period of the tenancy .

Disposal

7. Rule 9(2) of The Tribunal Procedure (First-tier Tribunal)(Property Chamber)

Rules 2013 provide as follows: Rules 2013 provide as follows:

- i. The Tribunal must strike out the whole or a part of the proceedings or case if the Tribunal— (a) does not have jurisdiction in relation to the proceedings ...
- ii. Therefore, the Tribunal orders that the application be struck out.

Name: Mr John A Naylor MRICS FIRPM

Date: 30 March 2023

ANNEX – 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 might 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 this 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. 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).