



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

Case reference : **CAM/33UG/MNR/2023/0098**

HMCTS code : **P:PAPERREMOTE**

Property : **24 Shakespeare Way, Taverham,
NR8 6SJ**

Applicant (Tenant) : **Mr and Mrs Brett**

Respondent (Landlord) : **Mr and Mrs Stolworthy
(represented by Mr Craven of
Iconic Estate Agents)**

Type of application : **Application for permission to
appeal**

Tribunal members : **Peter Roberts FRICS CEnv**

Date of Decision : **7 February 2024**

DECISION

Description of hearing

This has been a remote determination on the papers which the parties are taken to have consented to, as explained below. The form of determination was a paper hearing described above as P:PAPERREMOTE. The issues were decided on the papers.

Decision

1. The Tribunal has considered the Applicant's request for permission to appeal to the Upper Tribunal Lands Chamber dated 5 February 2024 in respect of the Determination dated 21 December 2023 and determines that:
 - a. It will not review its Decision; and
 - b. Permission be refused for appeal to the Upper Tribunal Lands Chamber.
2. The Respondent may make a further application for permission to appeal directly to the Upper Tribunal (Lands Chamber). Any such application must be made 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, the Respondent should make any further application for permission to appeal online using the Upper Tribunal's online document filing system, called CE-File. This will enable the Upper Tribunal to deal with it more efficiently and will enable the parties to follow the progress of the application and submit any additional documents quickly and easily.
4. Information about how to register to use CE-File can be found by going to the following web address:

[https://www.judiciary.uk/wp-content/uploads/2021/07/Practice-Note-on-CE-filing-Lands-Chamber-17.6.21 .pdf](https://www.judiciary.uk/wp-content/uploads/2021/07/Practice-Note-on-CE-filing-Lands-Chamber-17.6.21.pdf)
5. Alternatively, it is possible to submit an application for permission to appeal by email to: Lands@justice.gov.uk.
6. The Upper Tribunal can also be contacted by post or by telephone at: Upper Tribunal (Lands Chamber), 5th Floor, Rolls Building, 7 Rolls Buildings, Fetter Lane, London EC4A 1NL (Tel: 020 7612 9710).

Reasons

7. The relevant provisions in respect of appeals concerning the amount of the rent increase are set out at Section 9 of the Practice Directions of the Upper Tribunal (Lands Chamber) dated 19 October 2020 (the "Practice Directions" which can be found at the following link:

<https://www.judiciary.uk/guidance-and-resources/upper-tribunal-lands-chamber-practice-directions/>
8. Paragraph 9.3 of the Practice Directions provides that decisions concerning rent increases may only be appealed to the Upper Tribunal Lands Chamber on a point of law.

9. No points of law have been raised by the Tenant and the Tribunal is therefore unable to grant permission for a referral to the Upper Tribunal Lands Chamber.
10. Notwithstanding this point, the Tribunal has considered whether there are sufficient grounds for a review of its Determination but, for the reasons set out below has concluded that there are not.
11. For clarity, the quotations are reproduced exactly as they appeared in the original documents/emails.

The Tenant's Appeal

12. The Tenant's appeal stated:

"I am appealing the decision due to late evidence taken from Iconic taken into account but mine wasn't also numerous properties that iconic submitted as evidence was fabricated saying that properties had been let but in fact they were actually sold.

Also when a property says let on rightmove there is no way of knowing if a lower amount has been accepted and I know that the property on Shakespear way that they evidenced after the deadline that was included in their claim was rented at a lower cost than advertised."

13. No further points were raised and no evidence was provided to support the allegations.

The Landlord's Response

14. Mr Craven of Iconic Estate Agents emailed the Tribunal on 6 February 2024 stating:

"I would like confirm that Iconic have not fabricated evidence regarding the numerous properties we provided. I have signed tenancy agreements and would be happy to provide this information with you if required."

15. No further points were raised.

Commentary

16. The Determination was provided to the Parties by email on 2 January 2024. As set out in that Determination an application for permission to appeal must be made within 28 days of the issuing of a determination. In this context, the Tenant's application was not received by this Tribunal until 5 February 2024 and is therefore out of time. Nevertheless, the Tribunal has reviewed the grounds for seeking permission to appeal and comment as follows.
17. The Tribunal is satisfied that that both Parties were afforded full opportunity to review and respond to each other's evidence prior to the issuing of the Determination and no new facts or evidence has been raised that would warrant a setting aside of that Determination.

18. The Determination stated the following:

“43. The Tribunal has noted the evidence submitted by both the Tenant and the Landlord and is grateful to both Parties for their assistance in this regard.” and,

“46. The Tribunal has not relied upon this evidence in isolation and has had full regard to all the evidence submitted by both Parties which gives it confidence that the determined rent is fair and reasonable.”

19. The Tribunal rejects the assertion that it did not take the Tenant’s evidence into account and the actual position was made clear in the Determination as set out above.

20. The Tribunal has no information before it as to whether any of the comparable properties were sold. However, the fact that one or more of the properties may or may not have been sold does not invalidate or alter the rental evidence provided to the Tribunal. In this regard, the Tribunal has been provided with no evidence to support the Tenant’s allegations of fabrication and Mr Craven has provided a written statement refuting these allegations.

21. The Tribunal understands achieved rents may, but not always, be below asking rents and this is a matter that has been considered.

22. In summary, the Tribunal has taken all the available evidence into account together with its own knowledge and expertise of the residential letting market and nothing has been brought to its attention within these latest exchanges that would warrant amending the Determination.

Name: Peter Roberts FRICS CEnv

Date: 7 February 2024