



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

Case reference : **CAM/33UG/MNR/2024/0034**

HMCTS code : **P:PAPERREMOTE**

Property : **293 Bowers Avenue, Norwich, NR3
2PP**

Applicant (Tenant) : **T Knapp and J Knapp**

Respondent (Landlord) : **M Saffarzadeh**

Type of application : **Determination of a Market Rent:
Sections 13 and 14 Housing Act
1988**

Tribunal members : **Mr P Roberts FRICS CEnv**

Date of Determination : **5 August 2024**

DECISION

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 determination described above as **P:PAPERREMOTE**. The documents that the Tribunal was referred to are in bundles from the Applicant and the Respondent. The Tribunal has noted the contents and the decision is below.

Decision

The Tribunal was unable to proceed to a Determination for the reasons stated below.

Reasons

1. The Landlord served two undated notices under section 13 (2) of the Housing Act 1988 to increase the passing rent from £755 per calendar month (pcm) to £825 per month.
2. One of these Notices stated a starting date of 13 April without specifying the year. As such, there is no way of knowing when the proposed rent was due to take effect from.
3. The other Notice stated a commencement date of 17 February 2024. However, this Notice is undated and there is no evidence as to when this Notice was served so the Landlord has not demonstrated that the requisite period between the service of the Notice and the commencement of the rent has been provided.
4. This rent is stated to be exclusive of Council Tax, Water Charges and fixed service charges.
5. The Tenant made an application dated 16 February 2024 to the Tribunal in reliance on section 13 (4) of the Housing Act 1988.
6. The Tribunal issued directions on 8 May 2024, inviting the Parties to submit any further representations (including any photographs and details of rentals for similar properties) they wished the tribunal to consider. Nothing has been received from either Party.
7. Section 13 (2) of the Housing Act 1988 (the “Act”) states:
*“...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 not earlier than – (a) the minimum period after the **date of the service of the notice;**”*
8. The requirement for the Notice to be dated is also set out at section 13 of the Guidance Notes.
9. In this case neither of the “prescribed forms” were dated. They do not, therefore, comply with the statutory requirements.
10. It is not therefore possible to ascertain the beginning of the period referred to in section 13 (2) of the Act from these Notices.

11. The Tribunal does not have jurisdiction to determine the validity of such notices. However, paragraph 48 of the Court of Appeal Decision in *Mooney v Whiteland* [2023] EWCA Civ 67 states:

“That is not to say that a rent assessment committee may not sometimes need to take a view whether a notice is valid. If it considers that a notice is invalid, it may decline to proceed until the question has been determined by the court. Conversely, if it considers that a notice is valid and that objections are without substance, it may proceed to determine the appropriate rent, but its determination will not prevent a tenant from disputing the validity of the notice.”
12. Taking all these points into account, the Tribunal considers that, in the circumstances, the Tribunal is unable to proceed further with this matter unless the County Court determines that either/both Notice(s) has/have been validly served.
13. It follows that, unless the County Court direct to the contrary, the passing rent shall continue to be £825 pcm. This does not preclude the Landlord from withdrawing these Notices and serving a fresh valid Notice should they so wish.

Name: Peter Roberts FRICS CEnv

Date: 5 August 2024

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 may 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 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 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.

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