



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

Case reference	:	CAM/00JA/MNR/2024/0612
Property	:	106 West Street Kings Cliffe Peterborough PE8 6XA
Applicant	:	James Streather (Landlord)
Representative	:	None
Respondent	:	Raymond & Vivien Giddings (Tenants)
Representative	:	None
Type of application	:	Application by the Landlord for review & permission to appeal
Tribunal	:	N. Martindale FRICS
Date & Venue	:	14 March 2025 HMCTS, Cambridge County Court 197 East St. Cambridge C1 1BA
Date of decision	:	14 March 2025

DECISION

Decision

1. The Tribunal has considered the landlord's applications for a review, and permission to appeal, of 13 March 2025 and determines that:
 - (a) it will not review its decision of 28 February 2025 ('the Decision');
 - (b) permission to appeal, is refused.
2. In accordance with section 11 of the Tribunals, Courts and Enforcement Act 2007 and rule 21 of the Tribunal Procedure (Upper Tribunal) (Lands Chamber) Rules 2010, the respondent may make further application for permission to appeal to the Upper Tribunal (Lands Chamber). Such application must be made in writing and received by the Upper Tribunal (Lands Chamber) no later than 14 days after the date on which the First-tier Tribunal sent notice of this decision to the party applying for permission to appeal. In this case permission to appeal has not been granted by the First Tier Tribunal.
3. The Upper Tribunal (Lands Chamber) may be contacted at: 5th Floor, Rolls Building, 7 Rolls Buildings, Fetter Lane, London EC4A 1NL (tel: 020 7612 9710); or by email: lands@hmcts.gsi.gov.uk

Reason for the Decision

4. *"The requirement of leave to appeal requires one to submit one's grounds of dissatisfaction for scrutiny to see whether they have sufficient merit to justify an appeal."* [Saleem v SoS for the Home Department [2001] 1 WLR 443, per Hale LJ @459]. However; *"It is Parliament's wish and intention that resources should not be devoted to continuing appeals at higher levels if an appeal fails to cross the threshold test of permission to appeal."* [Moyse v Regal Mortgages Ltd [2004] EWCA Civ 1269, per Brooke LJ @ 31].
5. Rule 55, Property Chamber Rules 2013, restricts the power of review: *"The Tribunal may only undertake a review of a decision – (a) pursuant to rule 53 (review on an application for permission to appeal); and (b) if it is satisfied that a ground of appeal is likely to be successful."*
6. The landlord seeks a review and permission to appeal the Decision. The landlord states at 1.2: *"The First-tier Tribunal's decision set aside the validly served Section 13 rent increase notice and reverted the rent to £470 per calendar month the previously registered rent under the Rent Act 1977."* And at 1.3: *"The Appellant submits that this decision is legally flawed and should be set aside or varied."*
7. To clarify; the Tribunal does not consider it has jurisdiction to determine a new rent under S.14 when the tenancy gives every indication to be protected by the Rent Act 1977 with a registered rent.
8. If the Tribunal is correct in this conclusion then the process for the landlord to follow to increase that Fair Rent would be to serve a RR1 Notice on the Rent Officer (VOA) at a future date, to ask them to set

that new Fair Rent, subject to the right of appeal by either party back to this Tribunal. In the meantime it is the view of this Tribunal that the maximum recoverable rent is that currently registered which may be less than the rent currently demanded by the landlord and paid by the tenant, also subject to determination at County Court. It follows that there would be a balancing exercise for payments over this figure since it was set as the Rent Act 1977 provides for. Settlement of repayment if any is also a matter for the parties and if required again on that referral to the County Court.

9. ***“Grounds of Appeal. Ground 1 Error of Law: Misapplication of Rent Act 1977 Protections: 2.1 The First-tier Tribunal wrongly determined that the tenancy remains subject to the Rent Act 1977, disregarding the fact that the tenant has accepted and paid increased rent over multiple years.”***
10. ***“Ground 2 Procedural Irregularity: Failure to Consider the Validity of the Rent Increase:”***
11. ***“Ground 3 Failure to Assess Market Rent Principles:”***
12. As set out above the Tribunal is unable to challenge the status of the subsisting Fair Rent Registration from 2018 or to decide that it may have changed over time. These are matters for the County Court to determine on the application of one or other party. Realistically it is only with the Court’s determination that the landlord can effectively bill, assess under or over payment and then to collect and enforce.
13. The landlord should set out its evidence and legal argument on tenancy status, the current legally recoverable rent and any balances owed to either party as a consequence, before the Court. Once the County Court has determined whether the status of this tenancy has, or has not, changed from a Regulated Tenancy under the Rent Act 1977, to an Assured Tenancy under the Housing Act 1988 then the matter of a change of rent from: That currently Registered as a Fair Rent, can be determined by the Rent Officer; or that currently payable as a Market Rent by earlier agreement, can be determined by the Tribunal, on application of either party, as a consequence.
14. One or both parties may be entitled to financial assistance with Court fees for an application at the County Court at Crown Buildings, Rivergate, Peterborough PE1 1EJ.
enquiries.peterborough.countycourt@justice.gov.uk
15. Neither the Rent Officer (for a Fair Rent) nor the Tribunal (for a Fair Rent appeal or a Market Rent) are involved in such applications for determining the status of a tenancy.
16. The landlord may still apply directly to the Upper Tribunal. However they may wish to take independent advice on a separate application to the County Court to determine the exact status on and statutory protection that the current tenancy may continue to enjoy.