



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

Case reference : **CAM/00MG/MNR/2024/0602**

HMCTS code : **P:PAPERREMOTE**

Property : **1 Wheatley Close, Emerson Valley,
MK4 2JL**

Applicant (Tenant) : **J Higgs**

Respondent (Landlord) : **R S and P K Ghattaura**

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 : **6 January 2025**

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 considers that there are sufficient grounds to consider that the Landlord's Notice served pursuant to section 13 of the Housing Act 1988 is defective such that it is unwilling to proceed further without a determination from the County Court as to its validity.

Reasons

Background

1. On 1 June 2024 the Landlord served notice under section 13 (2) of the Housing Act 1988 to increase the passing rent from £1,195 per calendar month (pcm) to £1,320 per month with effect from 2 June 2024.
2. This rent is stated to be exclusive of Council Tax, Water Charges and fixed service charges.
3. The Tenant made an application to the Tribunal in reliance on section 13 (4) of the Housing Act 1988 on 12 September 2024.
4. The Tribunal issued directions on 8 October 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.

The Landlord's Notice

5. 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;**"*
6. The date of the Landlord's Notice was 1 June 2024 but the stated date for the new rent to come into effect was 2 June 2024. The Landlord's Notice therefore only provided a notice period of one day.
7. Section 13 (2) and (3) of the Act sets out the minimum period from the date of the relevant Notice to the commencement of the revised rent. In addition, note 15 of the Guidance Notes attached to the Landlord's Notice provides assistance as to the interpretation of the legislation. It is clear from these documents that a notice period of one day is insufficient.

8. 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.”

9. The Tribunal considers the lack of sufficient notice by the Landlord to be fundamental such that it is not willing to proceed further in this matter unless the Court decides that the Notice should, despite this point, be accepted as being valid.

Name: Peter Roberts FRICS CEnv

Date: 6 January 2025

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).