



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

Case reference : **LON/00AT/MNR/2021/0019**

HMCTS code (paper, video, audio) : **P:PAPERREMOTE**

Property : **3 Old Timber Court, Acton Lane,
W4 5JQ**

Applicant : **Shabina Choudhry and Muhammad
Malik**

Representative : **In Person**

Respondent : **Harper Finn**

Representative :

Type of application : **Market Rent under ss 13 and 14 of
the Housing Act 1988**

Tribunal member(s) : **Mr A Harris LLM FRICS FCI Arb**

Date and venue of hearing : **28 July 2021 at 10 Alfred Place,
London WC1E 7LR**

Date of decision : **28 July 2021**

DECISION

Covid-19 pandemic: description of hearing

This has been a remote hearing which has been consented to by the parties. The form of remote hearing was P:PAPERREMOTE. A face-to-face hearing was not held because it was not practicable and all issues could be determined on paper. The documents that I was referred to are the tenancy agreement, the application and covering correspondence from the parties the contents of which the tribunal have noted

Decisions of the tribunal

- (1) Pursuant to section 13(1)(b) the tribunal determines that it does not have jurisdiction to deal with this application. Section 13 applies to any other periodic tenancy which is an assured tenancy, other than one in relation to which there is a provision for the time being binding on the tenant, under which the rent for a particular period of the tenancy will or may be greater than the rent for an earlier period. The tenancy agreement contains a clause increasing the rent by reference to an increase in the retail prices index.

The application

1. The applicant seeks a determination pursuant to sections 13 and 14 of the Housing Act 1988 following the service of a form 4 notice of increase by the Landlord.

Background

2. By a tenancy agreement dated 25 October 2018 the landlord granted a tenancy of the subject property to the tenant. The landlord served a notice of rent increase dated 22 November 2020 increasing the rent from £1650 per month to £1950 per month from 30 November 2020. A letter dated 22 October 2020 confirmed the tenancy had become a periodic tenancy.
3. On 3 November 2020 the Tenant applied to the tribunal for determination of a rent under sections 13 and 14 of the Housing Act 1988.

The Law

4. Section 13 of the Housing Act 1988 applies to increases of rent under assured periodic tenancies and in particular the section applies to periodic tenancies, which are assured tenancies other than one in relation to which there is a provision, for the time being binding on the tenant under which the rent for a particular period of the tenancy will or may be greater than the rent for an earlier period.
5. Schedule 3 of the tenancy agreement entitled General Conditions is a provision for rent increase by reference to rises in the retail prices index.

7. Rent Increase

*7.1. The Landlord can increase the Rent every twelve months on the anniversary of the date on which the Tenancy began (“the Rent Increase Date”). For the avoidance of doubt this means that the Rent will increase on the **Thirty-First October** each year. The increase is to be calculated according to the rise in the Retail Prices Index from the start of the Tenancy or the anniversary date whichever is the later. To avoid doubt if the Landlord does not increase the rent in any year this will not affect the Landlord’s rights to increase the Rent in subsequent years.*

6. This is a provision binding for the time being on the tenant and therefore the provisions of section 13 do not apply.

Name: A P Harris LLM FRICS FCI Arb Valuer Chair **Date: 28 July 2021**

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).

Housing Act 1988

13 Increases of rent under assured periodic tenancies.

(1) **This section applies to—**

(a) a statutory periodic tenancy other than one which, by virtue of paragraph 11 or paragraph 12 in Part I of Schedule 1 to this Act, cannot for the time being be an assured tenancy; and

(b) any other periodic tenancy which is an assured tenancy, other than one in relation to which there is a provision, for the time being binding on the tenant, under which the rent for a particular period of the tenancy will or may be greater than the rent for an earlier period.

(2) For the purpose of securing an increase in the rent under a tenancy to which this section applies, 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 beginning not earlier than—

(a) the minimum period after the date of the service of the notice; and

(b) except in the case of a statutory periodic [F1 tenancy—

(i) in the case of an assured agricultural occupancy, the first anniversary of the date on which the first period of the tenancy began;

(ii) in any other case, on the date that falls 52 weeks after the date on which the first period of the tenancy began; and]

(c) if the rent under the tenancy has previously been increased by virtue of a notice under this subsection or a determination under section 14 [F2 below—

(i) in the case of an assured agricultural occupancy, the first anniversary of the date on which the increased rent took effect;

(ii) in any other case, the appropriate date]

(3) The minimum period referred to in subsection (2) above is—

(a) in the case of a yearly tenancy, six months;

(b) in the case of a tenancy where the period is less than a month, one month; and

(c) in any other case, a period equal to the period of the tenancy.

[F3(3A) The appropriate date referred to in subsection (2)(c)(ii) above is—

(a) in a case to which subsection (3B) below applies, the date that falls 53 weeks after the date on which the increased rent took effect;

(b) in any other case, the date that falls 52 weeks after the date on which the increased rent took effect.

(3B) This subsection applies where—

(a) the rent under the tenancy has been increased by virtue of a notice under this section or a determination under section 14 below on at least one occasion after the coming into force of the Regulatory Reform (Assured Periodic Tenancies) (Rent Increases) Order 2003; and

(b) the fifty-third week after the date on which the last such increase took effect begins more than six days before the anniversary of the date on which the first such increase took effect.]

(4) Where a notice is served under subsection (2) above, 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,—

(a) the tenant by an application in the prescribed form refers the notice to [F4 the appropriate tribunal]; or

(b) the landlord and the tenant agree on a variation of the rent which is different from that proposed in the notice or agree that the rent should not be varied.

(5) Nothing in this section (or in section 14 below) affects the right of the landlord and the tenant under an assured tenancy to vary by agreement any term of the tenancy (including a term relating to rent).

Textual Amendments

F1 Words in s. 13(2)(b) substituted (11.2.2003) by The Regulatory Reform (Assured Periodic Tenancies) (Rent Increases) Order 2003 (S.I. 2003/259), art. 2(a)(i)

F2 Words in s. 13(2)(c) substituted (11.2.2003) by The Regulatory Reform (Assured Periodic Tenancies) (Rent Increases) Order 2003 (S.I. 2003/259), art. 2(a)(ii)

F3 S. 13(3A)(3B) inserted (11.2.2003) by The Regulatory Reform (Assured Periodic Tenancies) (Rent Increases) Order 2003 (S.I. 2003/259), art. 2(b)

F4 Words in s. 13(4)(a) substituted (1.7.2013) by The Transfer of Tribunal Functions Order 2013 (S.I. 2013/1036), art. 1, Sch. 1 para. 82 (with Sch. 3)