



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

Case Reference : **LON/00BK/MNR/2021/0014**

**HMCTS Code
(Paper, video, audio)** : **P: PAPERREMOTE**

Property : **Flat 23, Thomson House, 68
Bessborough Place, SW1V 3SJ**

Tenant : **Ms Andrea Erdos**

Landlord : **Peabody Trust**

Type of Application : **Section 13 of the Housing Act 1988**

Tribunal Member : **Ms H C Bowers**

**Date and venue of
Consideration** : **8 November 2021 at 10, Alfred
Place, London, WC1E 7LR**

Date of Decision : **8 November 2021**

DECISION

The Tribunal does not jurisdiction to determine this application for the reasons stated below.

Covid-19 pandemic: description of hearing

This has been a remote determination on the papers which was not objected to by the parties. The form of the determination was P:PAPERREMOTE. A face-to-face hearing was not held because it was not practical, no-one requested a hearing and all issues could be determined on the papers. The Tribunal were did not receive a bundle, but there were various documents that were included with the original application.

REASONS

The Application

1. The Tribunal received an application from the Tenant, Ms Andrea Erdos, dated 21 October 2020. The application was received by the Tribunal on 21 October 2020. Although the application was made on the form related to section 22 of the Housing Act 1988, it was clear that this application related to a Landlord's Notice of Increase that was served on the Tenant and therefore this was an application under section 13 of the Housing Act 1988.
2. The application referred a Landlord's Notice of Increase that was in relation Flat 23, Thomson House, 68, Bessborough Place, London, SW1V 3SJ (the subject property). The Notice of Increase was dated 18 May 2020 and proposed to increase the rent of the subject property from £833.00 per month to £862.16 per month with effect from 23 June 2020.

The Law

3. Section 13(4) of the 1998 Housing Act states:

*“Where a Notice is served under sub-section 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 the appropriate Tribunal; or*
- (b) the Landlord and 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*

Facts Found

4. The Tribunal received the application in the prescribed form referring the Notice of Increase on 21 October 2020. The date for the proposed increase in the rent was 23 June 2020.
5. The Notice of Increase and the accompanying letter was correctly addressed to Ms Erdos at the subject property.

Submissions

6. There have been no specific submissions from the parties. However, I note that in the papers sent by the Tenant, she made enquiries of Peabody Trust in respect of the Notice of Increase. She stated she did not receive the

Notice of Increase in the post and that she had only received a copy by email on 24 September 2021.

Discussion and Reasons for the Decision

7. It is appreciated that Ms Erdos has stated that she did not receive a copy of the Notice of Increase in the post and that she only received it by email in September 2020. The details on the Notice indicate that it had the correct postal address and the correct postcode. On the balance of probabilities, I find that the Notice was sent to the correct address. The Tribunal has no flexibility to accept any late application. This application was received by the Tribunal on 21 October 2020 after the date that the proposed rent was due to take effect, 23 June 2020. As a consequence the Tribunal has no jurisdiction.

8. It is noted that the Tenant has made another application that referred the 2021 Notice of Increase to the Tribunal. That case has already been determined under case reference number LON/00BK/MNR/2021/0133.

Name: Ms H C Bowers

Date: 8 November 2021

ANNEX - 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. Any appeal in respect of the Housing Act 1988 should be on a point of law.

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