



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

Case Reference : **CAM/33UE/MNR/2021/0059
P:PAPERREMOTE**

Property : **32 Goose Green Road Snettisham
King's Lynn Norfolk PE31 7PW**

Applicant : **Mr Richard Cooter and Miss
Alexandra Stickeis**

Respondent : **Ms Sheena Pennington**

Type of Application : **Decision in Relation to S.13 of the
Housing Act 1988**

Tribunal Member : **Mrs E Flint DMS FRICS**

**Date and venue of
Hearing** : **Remote hearing on the papers**

Date of Decision : **15 December 2021**

DECISION

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

This has been a hearing on the papers 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 the issues could be determined on the papers. The documents that I was referred to are in an unnumbered bundle, the contents of which I have recorded.

Background:

1. The landlord served a notice of increase on the tenant which proposed a new rent of £700 per month with effect from 15 September 2021.
2. The Tribunal issued Directions on 20 October. The tenants had stated in their application that they considered the landlord's notice to be invalid because the original tenancy agreement contains a rent review mechanism. The issue of whether the landlord's notice was invalid would be considered as a preliminary issue.
3. Written representations were received by both parties regarding both the jurisdictional issue and the appropriate rent if the landlord's notice was determined to be valid.

The Law:

4. The statutory provisions relating to when the tenant may refer the notice to the tribunal are contained in section 13 of the Act which is set out below.

The Tenancy agreement

The original tenancy was for a period of 12 months commencing on 15 December 2017. By Schedule 3 clause 6 of the agreement "*The Landlord can increase the rent every twelve months on the anniversary of the date on which the Tenancy began ("the Rent Increase Date"). 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.*"

The evidence

6. The landlord stated that the contractual tenancy had come to an end by effluxion of time and that the tenancy agreement allows the tenancy to continue on a monthly basis after the expiry of the initial term by agreement but that there was no agreement.
7. It had been the landlord's intention to grant a tenancy of one year on an Assured Tenancy basis with no agreement as to a continuation and that on the expiry of the initial term the tenancy should become a statutory tenancy from month to month. Accordingly, no communication took place with the Applicant tenants on the expiry of the term and no agreement was made as to its continuation on a contractual basis.

8. The tenants stated that they were of the opinion that the rent increase clause in the tenancy agreement was binding on both parties. The rent increase clause specifically comes into effect at the anniversary of the commencement of the tenancy; the date that the original fixed term expired. The rent, if increased in line with the agreement, should be £655.88 per month.
9. The tenants referred to a letter from the landlord dated 8 October 2018 confirming that “*we are happy for you to continue your tenancy for the foreseeable future.*”
10. The tenants stated that if they were occupying under a new tenancy then the appropriate documents including an electrical installation report should have been provided but no new documentation had been provided.

Facts Found

11. Clause 6 of Schedule 3 of the tenancy agreement which is binding on the parties provides that the rent for a particular period of the tenancy will or may be greater than the rent for an earlier period.

The Tribunal’s decision

12. The Tribunal does not have jurisdiction to deal with the application because the tenancy agreement included a clause setting out the rent review mechanism.

Reasons for the Decision

13. The wording of Clause 6 of Schedule 3 of the tenancy agreement precludes an application to the Tribunal, section 13 (1) (b) of the Act applies.

Chairman: Evelyn Flint

15 December 2021

Appendix of relevant legislation

Section 13 Housing Act 1988

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.

ANNEX - RIGHTS OF APPEAL

- i. 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.
- ii. 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.
- iii. 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.
- iv. 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.