



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

**Case reference** : **LON/00AD/MDR/2019/0004**

**Property** : **Flat 6, 38 Thanet Road, Erith, DA8  
3RB**

**Applicant** : **Lokonga Benjamin Ikomo**

**Representative** : **None**

**Respondent** : **District Homes CIC**

**Representative** : **None**

**Type of application** : **Paper decision in relation to  
jurisdiction under section 22 of the  
Housing Act 1988**

**Tribunal member(s)** : **Judge N. Rushton QC BA(Law)  
LLM;  
Mr J F Barlow JP FRICS**

**Venue** : **10 Alfred Place, London WC1E 7LR**

**Date of decision** : **6 September 2019**

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**DECISION**

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## **Decision:**

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

## **Background:**

1. The Tribunal received an application from the Applicant tenant under section 22 of the Housing Act 1988 (“the 1988 Act”) on 28 June 2019. It is date-stamped as originally received by the Southern Region Property Chamber on 26 June 2019 but was forwarded to the London Property Chamber as the Property falls within the latter’s geographical area.
2. On 7 August 2019 the Applicant was notified that the Tribunal’s preliminary opinion was that it might not have jurisdiction to consider the matter under s.22 of the 1988 Act; that the Tribunal considered the jurisdiction issue was suitable for determination on written representations (paper track) but that either party was entitled to request a hearing. The letter also informed the Applicant that any such paper determination would take place on 6 September 2019.
3. On 12 August 2019 the Applicant responded that he agreed to the matter being dealt with on paper. He did not submit any other representations as to whether the Tribunal had jurisdiction. No representations have been submitted by the Respondent landlord.

## **The law:**

4. Section 22 of the 1988 Act states (so far as material):—

### **“22. Reference of excessive rents to [the Tribunal]**

(1) Subject to... subsection (2) below, the tenant under an assured shorthold tenancy may make an application in the prescribed form to [the Tribunal] for a determination of the rent which, in [the Tribunal's] opinion, the landlord might reasonably be expected to obtain under the assured shorthold tenancy.

(2) No application may be made under this section if—

... (aa) the tenancy is one to which section 19A above applies and more than six months have elapsed since the beginning of the tenancy or, in the case of a replacement tenancy, since the beginning of the original tenancy;...”

5. Section 19A provides that an assured tenancy which is entered into after the coming into force of the Housing Act 1996 (on 23 August 1996) will be an assured shorthold tenancy, unless any of the exceptions in Schedule 2A to the 1988 Act apply.

**Facts found:**

6. The Applicant tenant entered into a written tenancy agreement with the Respondent landlord in relation to the above-stated Property on 23 January 2017. The tenancy is stated to be for a fixed term of 6 months from 23 January 2017 at a rent of £730.82 per month. A copy of the tenancy agreement was attached to the application.
7. The Applicant stated in his application that he had “held over” after the initial 6 month period.

**Reasons for the decision:**

8. The Tribunal finds that the Applicant occupies the Property under a statutory periodic tenancy which took effect at the end of the original 6-month assured shorthold tenancy which began on 23 January 2017.
9. The tenancy is one to which section 19A of the 1988 Act applies, since it is an assured tenancy which was created after 23 August 1996 and none of the exceptions in Schedule 2A to the 1988 Act apply.
10. By section 22(2) of the 1988 Act, as set out above, no application may be made to the Tribunal under section 22(1) for a determination of the rent which the landlord might reasonably be expected to obtain under that assured shorthold tenancy if more than 6 months have elapsed since the beginning of the tenancy or, in the case of a replacement tenancy, since the beginning of the original tenancy.
11. The Applicant’s application was first received on 26 June 2019, which was 2 years and 5 months after the beginning of his original tenancy on 23 January 2017.
12. It was therefore received more than 6 months after the beginning of his original tenancy and so by reason of section 22(2)(aa) of the 1988 Act, the Tribunal has no jurisdiction to consider his application for a rent determination.
13. The application is therefore dismissed for lack of jurisdiction.

**Name: Judge N Rushton QC BA  
(Law) LLM**

**Date: 6 September 2019**

**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).