



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

Case Reference : **LON/00AY/MNR/2019/45**

Property : **49 Edithna Street, London SW9 9JR**

Applicant : **Mr D Copas (Tenant)**

Respondent : **Bankway Properties Ltd (Landlord)**

Type of Application : **Determination as to whether the Tribunal has jurisdiction**

Tribunal Members : **Mr S Brilliant
Mrs A Flynn MA MRICS**

Date and Venue of Hearing : **7 June 2019
10 Alfred Place, London WC1E 7LR**

Date of Written Reasons : **05 July 2019**

DECISION

The issue

1. The issue in these proceedings is was a notice of increase served by the landlord on the tenant under section 13(2) of the Housing Act 1988 served correctly or not? If it was not served correctly, the Tribunal has no jurisdiction.

The facts

2. The tenant is the assured weekly periodic tenant of 49 Edithna Street, London SW9 9JR (“the property”) under a lease commencing on Monday 10 13 April 1992. This is a weekly tenancy so each new period of the tenancy begins on Monday.

3. On 13 March 2019, the landlord sent the tenant a notice proposing a new rent of £206.00 **per month** for the property from 19 April 2019.

4. 05 April 2019, The Tribunal wrote to both parties expressing the preliminary opinion that the landlord’s notice was of no effect because (1) it proposed an incorrect amount of increase (£206.00 per **month** rather than £206.00 per **week**) and (2) it did not appear to take effect at the commencement of a new period of the tenancy.

The law

5. Section 13 of the Housing Act 1988 provides as follows (our emphasis):

(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 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 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.

Does the incorrect period of the new rent make the notice invalid.

6. In our judgment, the obviously mistaken period of the new rent does not make the notice invalid. It appears to have been served with a letter of the same date from the landlord's agents correcting the mistake. In construing the notice it is perfectly proper for an accompanying letter to be taken into account. There could be no confusion.

7. Moreover, the seminal decision of the House of Lords in Mannai Investment Co Ltd v Eagle Star Life Assurance Co Ltd [1997] UKHL 19 allows us to construe the notice as if it had the correct date in it.

Was the notice served on the right date?

5. Section 13(2)(b) is not engaged because this is a statutory periodic tenancy.

6. However, 13(2)(a) is engaged. However, it is satisfied because more than one month's notice was given.

7. Section 13(2) requires the new rent to **take effect at the beginning of a new period of the tenancy specified in the notice.**

8. In this case it is proposed a new rent will take effect on 19 April 2019. This is a Friday. It is not the beginning of a new period of the tenancy, which is a Monday.

9. The letter from the landlord's agents dated 13 March 2019 contains a very curious provision: *Your rent for the week of the 15th April – 21st April will be £200.26 (or an additional £4.26) and £206.00 per week thereafter.*

10. It is not understood how this fits in with the notice which refers to an increase from Monday 15 April 2019, which is a date prior to the date when the new rent is said to commence, and which refers to a rent lower than that proposed as the increase. We regard this passage as verbiage which can be ignored.

Conclusion

11. The proposed new rent does not take effect from the beginning of a new period of tenancy. Accordingly, we find we have no jurisdiction in this case.

Simon Brilliant

Dated: 05 July 2019

ANNEX - RIGHTS OF APPEAL

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.

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