



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

Case reference : **CAM/22UG/MNR/2020/0033**

Property : **28 Joy Clucas House, Apprentice Drive,
Colchester, Essex CO4 5TY**

HMCTS Code : **A: BTMMREMOTE**

Applicant : **Megan Vaughan and Carl Tomlinson**

Representative : **Megan Vaughan**

Respondent : **David Milne**

Representative : **Gary Everett of Martin & Co**

Type of application : **Decision in relation to section 13 of the
Housing Act 1988**

Tribunal member(s) : **Tribunal Judge Dutton
Mr D Barnden MRICS**

Venue : **Telephone hearing**

Date of decision : **8 March 2021**

DECISION

Covid-19 pandemic: description of hearing

This has been a remote audio hearing which has been not objected to by the parties. The form of remote hearing was A:BTMMCOURT. A face-to-face

hearing was not held because it was not practicable and all issues could be determined in a remote hearing. The documents that we were referred to are in a bundle of 59 pages, the contents of which we have noted.

Decision:

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

Background:

1. The tribunal received an application under section 13 of the Housing Act 1988 on 128 December 2020
2. A remote telephone hearing took place on 8 March 2021, which was attended by those named on the front page. In addition, we had the documents mentioned above, which included the application and supporting letter from the applicants, a copy of the tenancy agreement, directions issued by the tribunal on 5 January 2021 and submissions by the parties.

The law:

3. The law applicable to this case is to be found at section 13(1) of the Housing Act 1988, which says as follows:

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.

Facts found:

4. The tenancy agreement produced to us contains the following clause at 1.7.8. under the heading 'Rent Increase':

1.7..8.1 If for any reason the Tenant remains in possession of the Property, or the lawful tenant of the Property, for more than 12 months then the Rent will increase once each year

1.7.8.2. The first increase will be on the first Rent Due Date more than 364 days after the commencement date.

1.7.8.3 Subsequent increases will be on the first Rent Due Date more than 364 days since the last rent increase.

5. *1.7.8.4 In clauses 1.7.8.2 and 1.7.8.3 the Rent will increase by the amount stated for the annual increase in the CPI (Consumer Price Index as published by the Office of National Statistics) as quoted for the month two months prior to the month of the increase.*

Reasons for the decision:

6. By reason of s13(1)(b) the tribunal does not have jurisdiction to determine the rent for the Property as clause 1.7.8.4 provides the mechanism for such increase. It appears to be agreed that the relevant percentage for October 2020 is 0.9%.

Name: Tribunal Judge Dutton **Date:** 8 March 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).