



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

Case reference : **CAM/42UD/MNR/2021/0065**

HMCTS code : **P:PAPERREMOTE**

Property : **132 Foxhall Road Ipswich Suffolk
IP3 8HW**

Applicant : **Mr Shanmuganathan Sivapalan
and Mrs Anusha Sivapalan**

Respondents : **Birch Property Consultants**

Type of application : **Section 14 of the Housing Act 1988
Determination of market rent
payable.**

Tribunal member(s) : **Mary Hardman FRICS IRRV(Hons)**

Date of decision : **8 February 2022**

DECISION

Covid-19 pandemic: description of hearing

This has been a hearing on the papers which has been consented to by the parties. The documents that I was referred to are in individual responses produced by the Applicant and the Respondent. I have noted the contents and my decision is below.

Background

1. By way of an Application received on 23 November 2021 the Applicants, the Tenants of the Property, referred to the Tribunal an Application (the Application) referring a notice of increase in rent (the Notice) by the Landlord of the property under Section 13 of the Housing Act 1988.
2. The Notice is dated 15 November 2021 and proposed a new rent of £797.50 per month instead of the existing rent of £725 per month to take effect from 1 January 2022.
3. The Tribunal acknowledged receipt of the Application and fixed the date of week commencing 14 February 2022 to consider the matter. Neither Party requested a Hearing.
4. Each Party was invited to submit representations to include photographs and all relevant details. Representations were received from both parties, including a copy of the Tenancy Agreement .
5. For reasons which will become clearer below the Tribunal do not intend to detail these submissions.

The Law

6. The Tribunal first had to determine that the Tribunal had jurisdiction to hear the Application by reference to the validity of the Notice, in order to determine a rent under S14 of the Act. In short the Tribunal must determine that the landlord's notice under Section 13 (2) satisfied the requirements of that section and was validly served.
7. The Act provides in section 13(2) as amended by the Regulatory Reform (Assured Periodic Tenancies) (Rent Increases) Order 2003 that the date in paragraph 4 of the Landlord's notice (the date the new rent becomes payable) must comply with three requirements
8. The first requirement is that a minimum period of notice must be given before the proposed new rent can take effect.
9. The second requirement is that the starting date must not be less than 52 weeks after the date on which the rent was last increased using this procedure although there are exceptions to this.
10. The third requirement is that the proposed new rent must start at the beginning of a period of the tenancy (see paragraph number 17 of the Guidance Notes forming part of the prescribed form of the Landlord's Notice).
11. Section 14 of the Act requires the Tribunal to determine the rent at which it considered the subject property might reasonably be expected to be let on the open market by a willing Landlord under an Assured Tenancy in so doing the Tribunal is required by Section 14 (1) to ignore the effect on the rental value of

the property of any relevant tenants' improvements as defined in Section 14 (2) of the Act.

12. Only if a landlord's notice complies with each of the requirements referred to above does a Tribunal have jurisdiction to determine a rent under section 14 of the Act.

The Tribunal's Decision

13. The Tribunal directed the landlord to provide the tribunal with a copy of the Assured Tenancy Agreement. This is dated 31 May 2012 between the Landlord, Mr C Ashman and the Tenants, Mr Shanmuganathan Sivapalan and Mrs Anusha Sivapalan .
14. The Agreement is stated to be for a term of 6 months commencing 31 May 2012 at a commencement rent of £650 per calendar month. At paragraph 1 of the Agreement it is stated that the first rent payment shall be made on the date of signing the tenancy agreement, 31 May 2012 and thereafter, payments are due on the 19th day of each month.
15. The Landlord's Notice stated the Landlord proposed a new rent of £737.50 per Month and the starting date for the new rent is stated to be 1 January 2022.
16. The Tribunal find the Notice to be invalid for the following reason:
The Tenancy commenced on 31 May 2012, and the first rent payment was due on that date. Whilst future rent payments were to be made on the 19th day of each month that does not change the commencement date of the Tenancy. The Notice does not therefore comply with the third mandatory requirement of the Law as set out in paragraph 10 above.
17. In the absence of a valid notice of increase the tribunal determines it has no jurisdiction to consider the case. The existing rent will continue to be payable until such time as a valid notice of increase is served.

**Mary Hardman FRICS IRRV(Hons)
Regional Surveyor**

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).