



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

Case Reference : **LON/00BE/MNR/2019/0050**

Property : **Flat 1, 70 Abbey Street, London SE1
3NJ**

Applicant : **Mr N Alilonwu (Tenant)**

Representative : **Mr A Alilonwu (son)**

Respondent : **Clarion Housing Association 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 non-short told assured tenant of Flat 1, 70 Abbey Street, London SE1 3NJ (“the flat”) under a lease dated 23 August 2018. The lease provides that it begins on Thursday, 23 August 2018 per month and then renews monthly until brought to an end. Accordingly, from 24 August 2018 the tenancy became a statutory periodic tenant.

3. On 04 February 2019, the landlord sent the tenant a notice proposing a new rent of £817.44 per month for the flat from 01 April 2019. On 10 April 2019, the Tribunal wrote to both parties expressing the preliminary opinion that it did not have jurisdiction because the landlord’s notice was defective.

The law

4. 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.

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. But it is satisfied because more than one month's notice was given.
- 7. Section 13(2) also 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 01 April. This is not the beginning of a new period of the tenancy. The new period of the tenancy begins on the 23rd day in each month.

Conclusion

- 9. Accordingly, we find we have no jurisdiction in this case.

Simon Brilliant

Dated: 5 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.

