



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

Case reference : **LON/00BK/MNR/2021/0147**

HMCTS code (paper, video, audio) : **V:CVPREMOTE**

Property : **Flat A, 54 Bessborough Place,
London, SW1V 3SG**

Applicant : **Mr M W Rudd**

Representative : **In person**

Respondent : **Peabody Trust**

Representative : **None**

Type of application : **Market Rent under s13 & 14 of the
Housing Act 1988**

Tribunal member(s) : **Mr A Harris LLM FRICS FCI Arb**

Date and venue of hearing : **11 November 2021 at 10 Alfred
Place, London WC1E 7LR**

Date of decision : **11 November 2021**

DECISION

Covid-19 pandemic: description of hearing

This has been a remote hearing which has been consented to by the parties. The form of remote hearing was CVPREMOTE with all participants joining from elsewhere. 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 the Tribunal were referred to are in a bundle, the contents of which have been noted. The order made is described below.

Decisions of the tribunal

- (1) The tribunal determines that the notice of increase served by the landlord dated 26 July 2021 is invalid and that it does not have jurisdiction.

The application

1. On 26 July 2021 the Respondent served a notice of variation of rent and service charges setting out that a new rent of £780.93 would be payable from 1 October 2021. The accompanying letter set out the basis on which the rent had been assessed. It said that the rent would be the lowest of three figures. Firstly 60% of the market rent secondly an increase of 3.5% on the existing rent and finally the London living rent. The basis adopted was 3.5% of the existing rent. The notice of increase stated that the existing rent was £754.52. The Applicant stated that this had never been his rent.
2. The property was previously owned by the Crown Estate and as part of the transfer to the Respondent, it was agreed that the rent would be capped and the agreement contained a provision which stated that

the revised rent shall be the amount specified in the notice of increase unless you refer the notice to a Rent Assessment Committee (now the First-tier Tribunal) or appeal to the landlord to review the rent. In the case of a determination by a Rent Assessment Committee the rent payable for the relevant year will be 60% of the rent so determined....
3. The tribunal received an appeal against the 2020 notice of increase and in a decision dated 18 June 2021 fixture rent of £1050 per month with effect from 1 October 2020. The Case reference was LON/00BK/MNR/2020/0117
4. At the hearing the Applicant confirmed that the rent collection department of the Respondents amended his rent to 60% of the tribunal's determination. The rent being paid was £630 per month.
5. The existing rent quoted in the notice of increase is therefore wrong and the calculation of a 3.5% increase is also therefore wrong. It is the Landlord's responsibility to put the correct figures in a notice of increase which is a

document having legal effect. It is not for the tenant to second guess what the landlord means.

6. 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.

Name: A P Harris LLM FRICS FCI Arb Valuer Chair **Date: 11 November 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).