



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

Case Reference : **LON/00BB/MNR/2020/0067
LON/00BB/MNR/2021/0034
P:PAPERREMOTE**

Property : **326B Sherrard Road Manor Park
London E12 6UF**

Applicant : **Miss Fiona Nisbett**

Respondent : **L & Q Housing Trust**

Type of Application : **Decision in Relation to S.13 of the
Housing Act 1988**

Tribunal Member : **Mrs E Flint DMS FRICS**

**Date and venue of
Hearing** : **Remote hearing on the papers**

Date of Decision : **20 April 2021**

DECISION

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

This has been a hearing on the papers which has been consented to by the parties. The form of remote hearing was P:PAPERREMOTE. A face to face hearing was not held because it was not practicable and all the issues could be determined on the papers. The documents that I was referred to are in an electronic file, the contents of which I have recorded.

Background:

1. The landlord served notices of increase on the tenant which proposed a new rent from 5 April 2020 and a second proposing a new rent from 5 April 2021.
2. The tenant's applications referring the landlord's notices to the Tribunal were dated 14 March 2020 and 11 March 2021 respectively.
4. The Tribunal wrote to the parties advising that it was its preliminary opinion that the Tribunal may not have jurisdiction to consider these two cases because "It appears that the tenancy agreement contains a binding provision whereby the rent for a particular period will or may be greater than the rent for a previous period (i.e. a rent review mechanism). This provision is at clause 5 and states:

We may increase or decrease your rent after giving you at least 28 days' notice in writing. The notice will tell you your new rent. Any increase or decrease will normally date from the first Monday in April. We will set your new rent using our most recent rent setting policy. Please note that the Rent Assessment Committee does not have the power to set your rent."
5. The parties were asked to reply by 7 April 2021. Neither party responded to the letter from the Tribunal.

The Law:

3. The statutory provisions relating to when the tenant may refer the notice to the tribunal are contained in section 13 of the Act:

Facts Found

4. Clause 5 of the tenancy agreement which is binding on the tenant provides that the rent for a particular period of the tenancy will or may be greater than the rent for an earlier period.

The Tribunal's decision

5. The Tribunal does not have jurisdiction to deal with the application.

Reasons for the Decision

- 10 The wording of Clause 5 of the tenancy agreement precludes an application to the Tribunal, section 13 (1) (b) of the Act applies.

Appendix of relevant legislation

Section 13 Housing Act 1988

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.

ANNEX - RIGHTS OF APPEAL

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