



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

Case Reference : **MAN/OOCZ/MNR/2019/0010**

Property : **21 Spring Place Gardens, Mirfield, West
Yorkshire WF14 0QU**

Applicant : **Ms Paige Crossley**

Respondents : **Leeds & Yorkshire Housing Association**

Type of Application : **Housing Act 1988-Section 13**

Tribunal Members : **Judge J. E. Oliver
Mrs S. A. Kendall MRICS (Valuer)**

**Date of
Determination** : **29th May 2019**

Date of Decision : **3rd June 2019**

DECISION

Decision

1. The Notice, dated 5th March 2019, proposing a new rent effective on 1st April 2019, is defective and therefore ineffective. The rent remains in the sum of £548.08 per calendar month to include the fixed service charge of £24.57.

Application

2. This is an application by Paige Crossley (“the Applicant”) for the determination of the rent payable in respect of 21 Spring Place Gardens, Mirfield, West Yorkshire (“ the Property”), pursuant to Section 13 of the Housing Act 1988 (“the Act”).
3. The Applicant acquired the tenancy of the Property on 22nd January 2015. The tenancy is an assured non-shorthold monthly tenancy. The original rent was £510 per calendar month, to include a fixed service charge of £29.64. The tenancy agreement provided for the Respondent to increase or reduce the rent upon giving a tenant not less than one month’s notice. The agreement further provided for any variation of the rent to take effect on the 1st April of each year.
4. The Landlord of the Property, Leeds & Yorkshire Housing Association (“the Respondent”) served a notice to increase the rent for the Property (“the Notice”) from £548.08 per calendar month, including a fixed service charge of £24.57, to £566.71 per calendar month, including a fixed service charge of £32.60. The Notice, dated 5th March 2019, stated the increase was to take effect from 1st April 2019.
5. The Applicant objected to the proposed increase and filed an application with the First-tier Tribunal dated 6th March 2019 for the issue to be determined.
6. Neither party made any written submissions to the Tribunal, nor requested a hearing.

Inspection

7. The Tribunal inspected the Property in the presence of the Applicant. The Respondent was not represented.
8. The Property is a second floor, two bedroomed flat, being part of a block of twelve flats. It is within a modern development of detached, semi-detached, linked houses and apartment blocks. There is a car park to the rear of the block to which the Applicant has access, although there is no designated car parking space included within the tenancy, but there are no designated car parking spaces for the occupants.
9. The accommodation comprises two double bedrooms, one of which is en-suite, a large kitchen/ living room/dining area, hallway and bathroom.
10. The Property is double-glazed throughout and has gas central heating.
11. The Applicant confirmed the tenancy included all floor coverings and the cooker.
12. The Applicant confirmed that all necessary repairs had been completed and there were no items of disrepair within the Property.

Determination

13. The Tribunal firstly considered whether it had jurisdiction to deal with the application. The tenancy must be one that falls within section 13 of the Act.
14. The criteria for this are:
 - the tenant must have exclusive occupancy of the Property;
 - the Property must be a dwelling house;
 - the dwelling house must be let as a separate property;
 - the tenant must be an individual;
 - the tenant must occupy the property as their principal home;All these conditions are met in this case.
15. Section 13 of the Act allows the Landlord to increase the rent in an assured periodic tenancy provided there is no binding provision under which the rent may be increased. Here, the tenancy agreement provides for the rent to be increased by the service of a notice and for the tenant to have the ability to refer the notice to the First-tier Tribunal for a determination in the event of the a dispute. Consequently, there is no binding provision to prevent the rent being increased. Section 13 (2) of the Act further provides the notice period to be given for any increase of rent, must be one month, in the case of a monthly tenancy.
16. The Tribunal noted that from the documents disclosed to it, the Respondent had sent a letter, dated 28th February 2019, to the Applicant advising of their intention to increase her rent on 1st April 2019. The letter sets out the terms for the rent and fixed Service Charge. However, the letter itself does not satisfy the requirements for the form of any notice of increase. Any notice proposing a new rent must be in Form 4B as established by the *Regulatory Reform (Assured Periodic Tenancies) (Rent Increases) Order 2003 (as amended)*. In this case, Form 4B is dated the 5th March 2019 and provides for the rent increase to be effective from 1st April 2019.
17. The Tribunal determined that because of the defective Notice, it did not need to further consider whether the proposed rent of £566.71 was appropriate.
18. The Tribunal therefore determined the Notice is defective in that it does not provided one month's notice of the proposed rent increase as required by Section 13(2) of the Act. It is therefore ineffective and the rent for the Property remains at £548.08 per calendar month, inclusive of the service charge.

Tribunal Judge Oliver
29 May 2019