

**Rent Assessment Committee: Reasons for decision.
Housing Act 1988**

Address of Premises

63 John's Road
Farcham
Hants
PO16 0RX

The Committee members were

Mr P R Boardman MA LLB
Miss J Dalal
Mr D Lintott FRICS

1. Background

By letter dated the 16 May 2004 the tenant of this property sent to the Committee a notice of increase of rent served by the landlord under section 13 of the Housing Act 1988, and notified the Committee that the tenant would be in hospital from the 16 May 2004 for an operation.

The landlord's notice, which proposed a rent of £500 a month with effect from the 1 June 2004, is dated the 15 April 2004.

The Committee received the tenant's letter dated the 16 May 2004 on the 18 May 2004, and sent to the tenant an application form in the prescribed form on the same date.

By letter dated the 7 June 2004 the tenant returned to the Committee the application in the prescribed form, referring the landlord's notice to the Committee.

2. Evidence

The hearing took place on the 29 July 2004. Neither party attended.

3. The law

The material provisions of Section 13 of the Housing Act 1988 are :

“(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.....

(3)

(4) Where a notice is served under subsection (2) above, a new rent specified in the notice shall take effect as mentioned in the notice unless, before the beginning of the new period specified in the notice, _

(a) The tenant by an application in the prescribed form refers the notice to a rent assessment committee;

In reaching a decision in cases such as this, the Committee is also bound by previous decisions made by the Court, and, in the case of **R (on the application of Lester) v London Rent Assessment Committee** [2003] EWCA Civ 319, the tenant’s application in the prescribed form had reached the committee’s office *on* the date specified in the landlord’s notice for the new rent to take effect; and the Court of Appeal held that the committee had no jurisdiction to determine the tenant’s application because the application had not been received *before* that date

4. The decision

The Committee finds that the tenant’s letter dated the 16 May 2004 sending to the Committee the landlord’s notice of increase of rent was not “an application in the prescribed form” for the purposes of Section 13 of the Housing Act 1988; that the date specified in the landlord’s notice for the new rent to take effect was the 1 June 2004; and that the tenant’s application in the prescribed form, referring the landlord’s notice to the Committee, was dated the 7 June 2004, and was received by the Committee *after* the date specified in the landlord’s notice for the new rent to take effect.

The Committee accordingly also finds that the tenant has not referred the notice to the Committee in accordance with section 13 of the Housing Act 1988, and that the Committee has no jurisdiction to determine the current rent under section 14 of the Housing Act 1988.

In making that finding the Committee notes with sympathy that the tenant went into hospital on the day on which she wrote to the Committee on the 16 May 2004, but the Committee also notes that the tenant did not write to the Committee until the 16 May 2004, despite the landlord's notice being dated the 15 April 2004.

Chairman



Dated the 29 July 2004