



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

Case Reference : **LON/OOBK/MNR/2019/0131**

Property : **Flat 14 Marysmith House 48 Causton Street
London SW1P 4AT**

Applicant : **Mr Andrew James Ford**

Respondent : **Peabody**

Date of Application : **27 September 2019**

Type of Application : **Determination of the market rent under
Section 14 Housing Act 1988**

Tribunal : **Mrs E Flint DMS FRICS
Ms J Dalal**

**Date and venue of
Hearing** : **2 December 2019
10 Alfred Place,
London WC1E 7LR.**

DECISION

The market rent as at 1 October 2019 is £940 per month.

Background

1. On 29 July 2019 the landlord served a notice of increase on the tenant which proposed a new rent of £577 per month instead of the existing rent of £558 per month based on a fixed increase of 3.5% of the previous rent. The rent was subject to a cap of 60% of the open market rent or an inflationary increase in the previous year's rent, based on the Tenancy agreement.
2. The proposed new rent was specified to take effect from 1 October 2019 and was based on an inflationary increase.
3. The current periodic tenancy began in July 1991.
4. The tenant referred the landlord's notice to the Tribunal on 27 September 2019.
5. At the hearing the Applicant appeared in person, the landlord was not present nor represented. Prior to the hearing the tenant submitted written representations, no representations were received from or on behalf of the landlord.

The Hearing

6. Mr Ford referred to his written submissions. The block was built in 1975, it is in a convenient location for public transport although the area is rough and ready compared with his comparables. The original plan was for two one-bedroom flats on the third floor however three studio flats were constructed resulting in his kitchen being smaller than those in the other flats due to the structure of the building. The wiring in the flat is old. He is responsible for internal repairs, except where the landlord has a statutory obligation, and the internal decorations.
7. Following the Grenfell fire the landlord has replaced the front door of the flat with a fire door, installed a new lift and within the last few months has replaced the kitchen units.
8. The flat was opposite loading bays for commercial premises which were in use seven days a week. In the evenings there was often disturbance from both the unlocked children's playground and the nearby public house.
9. He referred to asking prices for three studio flats which he said showed that the landlord's valuation of the market rent was excessive. He was of the opinion that his flat was worth about £800 per month.
10. A studio in Wilton Street, in good condition, fully furnished the landlord being responsible for all repairs was on the market at £1235 per month. It was in a better location with the tube and a supermarket nearby.

11. A studio in Page Street was on the market at £1235 per month. The landlord was responsible for all repairs. The location was superior to that of Marysmith House as it is close to the Home Office and the Westminster village consequently there is a strong police presence, therefore there is very good security in that area.
12. A furnished studio in the prestigious luxury Dolphin Square development, was on the market at £1278 per month, only a little more than the landlord's valuation of his flat despite the additional amenities and services included at Dolphin Square such as restaurant and leisure facilities.

Inspection

13. The tribunal inspected the property after the hearing had ended.
14. Marysmith House is a four-storey purpose built block. The entrance hall is small, the common parts are carpeted but basic with many exposed pipes running along the walls. There is no garden or car parking associated with the block which appeared to be in fair condition. The flat is on the third floor set into the mansard.
15. Internally the flat comprises a bedsitting room, small kitchen and bathroom/wc. There are two double glazed windows in the bedsitting room and two radiators. The small kitchen has an opening roof light, new units and a modern gas fired boiler supplying heating and hot water, the white goods are the tenant's. The bathroom/wc has a modern white suite with shower over the bath and an opening skylight. At the time of the inspection the thermostat for the central heating system was broken, a replacement had been ordered by the landlord.

The law

16. The Tribunal must first determine that the landlord's notice under section 13(2) satisfied the requirements of that section and was validly served.
17. The Housing Act 1988, section 14 requires the Tribunal to determine the rent at which it considered that the subject property might reasonably be expected to be let on the open market by a willing landlord under an assured tenancy.
18. In so doing the Tribunal, is required by section 14(1), to ignore the effect on the rental value of the property of any relevant tenant's improvements as defined in section 14(2) of that Act.

Valuation

19. The Tribunal considered the market evidence provided by the tenant and its own knowledge of general rental levels in Westminster.
20. When considering the tenant's comparables the Tribunal found that the flats on the market were in better condition, offered more amenities in terms of white goods etc, were in better quality blocks and had less onerous obligations in terms of repairing and decorating than the subject premises.

21. The Tribunal determined that the market rent for the subject property, let under the terms of the actual tenancy was £940 per month to reflect the terms of the tenancy agreement, excluding those relating to rent, and its position in this utilitarian block.

Decision

22. The Tribunal first determined that the landlord's notice under section 13(2) satisfied the requirements of that section and was served in time.

23. In coming to its decision on the rent the Tribunal applied the above law.

24. Having done so the Tribunal determined that the rent at which the property might reasonably be expected to be let on the open market would be £940 per month. This rent will take effect from 1 October 2019 being the effective date in the landlord's notice.

25. The rent payable by the tenant however is capped at 60% of the market rent, based on the terms of the Tenancy agreement.

Chairman: Evelyn Flint

Dated: 9 December 2019

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.

Appendix Housing Act 1988

14 Determination of rent by rent assessment committee.

(1) Where, under subsection (4) (a) of section 13, a tenant refers to a rent assessment committee a notice under subsection (2) of that section, the committee shall determine the rent at which, subject to subsections (2) and (4) below, the committee consider that the dwelling-house concerned might reasonably be expected to be let in the open market by a willing landlord under an assured tenancy—

(a) which is a periodic tenancy having the same periods as those of the tenancy to which the notice relates;

(b) which begins at the beginning of the new period specified in the notice;

(c) the terms of which (other than relating to the amount of the rent) are the same as those of the tenancy to which the notice relates; and

(d) in respect of which the same notices, if any, have been given under any of Grounds 1 to 5 of Schedule 2 to this Act, as have been given (or have effect as if given) in relation to the tenancy to which the notice relates.

(2) In making a determination under this section, there shall be disregarded—

(a) any effect on the rent attributable to the granting of a tenancy to a sitting tenant;

(b) any increase in the value of the dwelling-house attributable to a relevant improvement carried out by a person who at the time it was carried out was the tenant, if the improvement—

(i) was carried out otherwise than in pursuance of an obligation to his immediate landlord, or

(ii) was carried out pursuant to an obligation to his immediate landlord being an obligation which did not relate to the specific improvement concerned but arose by reference to consent given to the carrying out of that improvement; and

(c) any reduction in the value of the dwelling-house attributable to a failure by the tenant to comply with any terms of the tenancy.

(3) For the purposes of subsection (2)(b) above, in relation to a notice which is referred by a tenant as mentioned in subsection (1) above, an improvement is a relevant improvement if either it was carried out during the tenancy to which the notice relates or the following conditions are satisfied, namely—

(a) that it was carried out not more than twenty-one years before the date of service of the notice; and

(b) that, at all times during the period beginning when the improvement was carried out and ending on the date of service of the notice, the dwelling-house has been let under an assured tenancy; and

(c) that, on the coming to an end of an assured tenancy at any time during that period, the tenant (or, in the case of joint tenants, at least one of them) did not quit.

(4) In this section “rent” does not include any service charge, within the meaning of section 18 of the Landlord and Tenant Act 1985, but, subject to that, includes any sums payable by the tenant to the landlord on account of the use of furniture or for any of the matters referred to in subsection (1) (a) of that section, whether or not those sums are separate from the sums payable for the occupation of the dwelling-house concerned or are payable under separate agreements....