



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

Case reference : **LON/00AN/MNR/2019/0087**

Property : **8 Quenington Mansions, Rostrevor Road, London SW6 5AU.**

Applicant : **Mrs. Irina Buchanan**

Representative : **In person.**

Respondent : **Dorrington PLC.**

Representative : **Savills.**

Type of application : **Decision under S.14 Housing Act 1988.**

Tribunal member(s) : **Ms. A. Hamilton-Farey LLB, FRICS,
Ms. J. Dalal**

Venue : **10 Alfred Place, London WC1E 7LR**

Date of decision : **19 September 2019**

REASONS FOR THE DECISION

Decision:

The Tribunal determines the market rent for the subject property at £1,200.00 per month with effect from 1 August 2019.

Background:

1. By a Notice dated 7 June 2019, the landlord sought an increase in rent under S.13 of the Housing Act 1988. The landlord proposed that the rent should increase from £1,200.00 to £1,320.00 per month with effect from 1 August 2019.
2. By an application dated 15 July 2019 the tenant, Mrs. Buchanan, sought a determination of the rent payable under her tenancy.
3. This matter has been before the tribunal before, and the parties are aware that the jurisdiction of the tribunal is to set a market rent for the property taking into consideration the terms of the tenancy, the condition of the property, its location and the market rent for similar properties in the locality.
4. It is not disputed that the tenant occupied the subject property under the terms of an agreement dated 8 January 1991 for a term of three years. The tenant has remained in occupation as a statutory periodic tenant. It is also not disputed that the landlord of the property has changed during the tenant's tenancy and has previously served notices to increase the rent. The tribunal has dealt with previous rent increases for this property.

The inspection:

5. The tribunal inspected the property on 19 September 2019. We found it to be situated within a purpose-built block c 1895, comprises two entrances, constructed of brickwork with parapets and wooden double hung sliding sash windows. The property externally was in a reasonably good condition.
6. The flat itself is situated on the second floor and comprises three rooms, kitchen/diner, bathroom W.C. originally unmodernised and with many improvements and modernisation carried out by the tenant since the start of her tenancy.
7. The tenant has installed and/or improved the following within the flat: Installed central heating, rewired, replaced ceilings, installed floorboards and wooden flooring, replaced skirtings, doors, modernised the bathroom, repaired windows and removed non-structural partitions. The tenant has installed a new kitchen, including a new boiler, new gas fireplaces to the living and dining rooms. In addition, she has fitted security bars to the bedroom window and the front door

and window. The works have been carried out to a good standard, and internally the property is in a good condition.

Evidence and comparables:

8. The tribunal received written representations from the tenant and from the landlord's agents, Savills. Comparable rents for three properties in the same block were provided, including the tenancy agreement for one of those lettings. The rents for these flats were £32,400 per annum (flat 7), £23,400 per annum (flat 2) and £24,699.96 (flat 3). The agents said that flats 7 was the most comparable being of a similar size, although recently refurbished. The agent suggested that the starting point for our determination should be a rent of £22,360.00 per annum, from which they had deducted 15% to reflect the tenant's improvements identified above, leaving an adjusted market rent of £19,006.00. The agents considered that the current rent passing for the flat of £14,000 per annum was between 25 and 30% below the market rent and suggested a 'phased increase' in the rent from £15,840 in year 1, £17,424.00 in year 2 and £19,006 in year three.
9. The tenant also provided details of rentals from Rightmove and suggested that the rent sought by the landlord was at the top of the range. She also provided details of a Rent Assessment Committee decision relating to another flat in the building, which was occupied just before Mrs. Buchanan took up occupation and which the Committee valued as being 'unmodernised'.
10. The tribunal has considered the evidence supplied by the parties when reaching its decision.

The law:

11. Section 13 of the Housing Act 1988 ("the Act") provides for the increase of rent under an assured periodic tenancy. In this case the landlord relies on the case of *London District Properties Management Limited v Goolamy* [2009] WHC 1367 (Admin) 2009 WL 1657136 which provides that the rent review provisions of the assured tenancy preceding the statutory period tenancy were of no effect (in this case the previous tenancy agreement contained a rent review clause, that would ordinarily oust the tribunal's jurisdiction to set the rent). The tribunal therefore had jurisdiction to determine the rent.
12. S. 14 requires the tribunal to set the rent by reference to the market rent for comparable properties, ignoring the effect of tenant's improvements.
13. In coming to its decision, the tribunal considered all of the evidence presented to it.

Valuation:

14. In coming to its valuation, the tribunal has had regard to the comparables provided. We find that, if the property were in the condition to be expected of a current market letting, that the rent suggested by the landlord would be reasonable. We have therefore started at a figure of £22,360.00 per annum as the market rent.
15. However, the property must be valued on the basis that the tenant's improvements have not been carried out, that no white goods, carpets or curtains have been supplied by the landlord, and that a tenant would seek a substantial reduction from that asking rent to reflect the unmodernised condition of the property.
16. It is the tribunal's view that a tenant would seek a reduction of at least the tribunal's view that a tenant would seek a reduction of at least 35% of the market value, approximately £7,800.00, resulting in a market rent in the region of £1,200.00.
17. The tribunal therefore determines the market rent for the subject property taking into consideration the tenant's improvements at £1,200.00 per calendar month. In fact, this is the rent currently passing under the tenancy and therefore the tribunal determines that the rent remains at that currently payable by the tenant.
18. The tribunal's decision takes effect from 19 September 2019 with the result that the tenant continues to pay the rent at the existing level.

Name: Aileen Hamilton-Farey **Date:** 20 September 2019.

Housing Act 1988 c. 50

s. 14 Determination of rent by tribunal.

14.— Determination of rent by [tribunal]¹ .

(1) Where, under subsection (4)(a) of section 13 above, a tenant refers to [the appropriate tribunal]² a notice under subsection (2) of that section, the [appropriate tribunal]³ shall determine the rent at which, subject to subsections (2) and (4) below, the [appropriate tribunal]³ 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 [, in respect of council tax]⁶ 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.

(5) Where any rates in respect of the dwelling-house concerned are borne by the landlord or a superior landlord, the [appropriate tribunal]⁷ shall make their determination under this section as if the rates were not so borne.

(6) In any case where—

(a) [the appropriate tribunal]⁸ have before them at the same time the reference of a notice under section 6(2) above relating to a tenancy (in this subsection referred to as “the section 6 reference”) and the reference of a notice under section 13(2) above relating to the same tenancy (in this subsection referred to as “the section 13 reference”), and

(b) the date specified in the notice under section 6(2) above is not later than the first day of the new period specified in the notice under section 13(2) above, and

(c) the [appropriate tribunal]⁹ propose to hear the two references together,

the [appropriate tribunal]⁹ shall make a determination in relation to the section 6 reference before making their determination in relation to the section 13 reference and, accordingly, in such a case the reference in subsection (1)(c) above to the terms of the tenancy to which the notice relates shall be construed as a reference to those terms as varied by virtue of the determination made in relation to the section 6 reference.

(7) Where a notice under section 13(2) above has been referred to [the appropriate tribunal]¹⁰ , then, unless the landlord and the tenant otherwise agree, the rent determined by [the appropriate tribunal]¹¹ (subject, in a case where subsection (5) above applies, to the addition of the appropriate amount in respect of rates) shall be the rent under the tenancy with effect from the beginning of the new period specified in the notice or, if it appears to [the appropriate tribunal]¹² that that would cause undue hardship to the tenant, with effect from such later date (not being later than the date the rent is determined) as the committee may direct.

(8) Nothing in this section requires [the appropriate tribunal]¹³ to continue with their determination of a rent for a dwelling-house if the landlord and tenant give notice in writing that they no longer require such a determination or if the tenancy has come to an end.

(9) This section shall apply in relation to an assured shorthold tenancy as if in subsection (1) the reference to an assured tenancy were a reference to an assured shorthold tenancy.

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).

