



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

Case reference : **FL/LON/00AY/MNR/2019/0098**

Property : **Ground floor flat, 2 Tenham
Avenue London SW2 4XR**

Applicant : **Mr P Newham**

Representative : **In person**

Respondents : **Allsop Letting & Management Ltd
(landlord's agents)**

Representative : **Ms B Wykes**

Type of application : **Sections 13 and 14, Housing Act
1988**

Tribunal members : **Mr Charles Norman FRICS
(Valuer Chairman)
Mr L Packer**

Date of Decision : **1 November 2019**

Date of Reasons : **31 December 2019**

REASONS

Background

1. On 4 September 2019 the tenant of the above property referred to the Tribunal a notice of increase of rent served by the landlord under section 13 of the Housing Act 1988 (“the Act”).
2. The landlord’s notice, which proposed a rent of £1,060 per month is dated 21 August 2019. The notice proposed a starting date for the new rent of 1 October 2019. The rent passing was £990 per month.
3. The tenancy is an assured periodic tenancy. From the tenant’s application, the assured tenancy commenced in December 1999. The tenant stated in his application form to the Tribunal that there was no tenancy agreement.
4. Directions were issued on 11 September 2019 which set the matter down to be dealt with by written representations on 1 November 2019. The landlord was directed to send a written statement by 11 October 2019 including any comparables. The tenant was directed to respond by 18 October 2019 to include a statement as to what furnishings were provided, who is responsible for repairs and decoration, details of any improvements to the property carried out at the tenant’s own expense since the assured tenancy came into effect and any other reasons that the tenant wished the Tribunal to consider. The landlord was permitted to make a reply by 24 October 2019. Notice of inspection by the Tribunal was given, to take place on 1 November 2019 sometime after 10 am. Subsequently, a hearing was requested (see below).
5. On 1 November 2019 the Tribunal determined that the market rent pursuant to the section 13 Notice was £720 per month and a Notice of Decision was issued. Subsequently, the landlord requested reasons.

The hearing

6. At the hearing, the landlord was represented by Ms B Wykes of Allsop Letting & Management Ltd. The tenant did not appear and was not represented.

The Landlord’s Case

7. Ms Wykes referred to the written representations and explained that she had not herself been inside the property. However, the landlord accepted that it was unmodernised and this was said to be reflected in the rent. The landlord also acknowledged damp in the kitchen (see below). The tenant was responsible for the interior of the property. The landlord’s written representations described the property as a ground floor maisonette within an end of terrace property, comprising four rooms, kitchen bathroom of approximately 80 sq. m in size. There were gardens front and rear. Allsop referred to comparables described as two and three bedroomed unfurnished properties in the immediate vicinity achieving between £24,000 and £31,200 per annum. Local agents

considered that the property in its current condition would let at between £21,600 and £23,400 per annum. The landlord submitted letters from Portico and Kinleigh Folkard and Hayward to this effect. Ms Wykes confirmed that Portico had not visited the property and Kinleigh Folkard & Hayward's letter stated that it was a desktop valuation. Allsop submitted that the fair rental value for the property in its current condition was £22,500 per annum. That was said to reflect the differences between standard fixtures and fittings usually found in a fully modernised property and the subject property.

The Tenant's case

8. The tenant's case may be summarised as follows. The tenant and his parents as predecessors had held the property since spring 1940. At no stage since then had any landlord carried out any upgrading or modernisation of the property to anywhere near the top market value. Most surrounding properties had had major restorations or adaptations unlike the subject property. The tenant referred to past rental levels. The tenant's representation stated "the property status reflected on the whole is just above half of market value.... The current rent is about right from pro-rata perspective to £1600 p. m." The meaning of this is unclear but the tenant appeared to be suggesting that the market rent was £1,600 per month of which he should be paying about half. The tenant did not refer to any comparables.

Inspection

9. The Tribunal inspected the property on 1 November 2019 in the presence of the tenant only. The property comprises an Edwardian purpose-built ground floor maisonette with two bedrooms, living room, kitchen, scullery, partial central heating and partial double glazing. There is an antiquated kitchen with a lot of visible damp to a wall with severe black mould over a wide area. Adjacent to the kitchen is an original scullery with a butler sink and landlords' gas cooker. There is a Vaillant gas boiler. A back door in the kitchen provides access to the rear garden. This door is in very poor condition and appeared insecure. The bathroom comprises a high level WC, bath and wash-handbasin. The bathroom is in poor condition with missing plaster around the sink and old fittings. To the rear of the maisonette is an unheated bedroom with double glazing. The front double bedroom has single glazing and a radiator. The lounge is fair sized with a radiator and double glazing. Central heating pipework and electrical cabling is surface mounted. There is a small rear garden. The exterior of the property requires redecoration. Tenham Avenue is a wide, quiet street on the borders of Balham and Streatham.

The law

10. The law as to the Tribunal's approach is given at section 14 of the Act which insofar as relevant is as follows:

(1)Where, under subsection (4)(a) of section 13 above, a tenant refers to a [Tribunal] a notice under subsection (2) of that section, the [Tribunal] shall determine the rent at which, subject to subsections (2) and (4) below, the [Tribunal] 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;

[...].

Findings

11. The Tribunal noted that neither Ms Wykes, Portico nor Kinleigh Folkard & Hayward had inspected the property. The latter had in fact given a rent range of £1,700 to £1,950 pcm, exclusive of outgoings. In terms of accommodation the Tribunal found that this is a 2 bedroomed, 1 reception maisonette because the kitchen cannot be considered as a reception room as it is integral with the scullery. Neither letter from the Letting Agents is in the form of an experts' report and therefore the Tribunal's weight given to the desktop valuations is limited. The Tribunal found that had the property been in a repaired, modernised condition suitable for a current letting, it would have achieved £1,800 p.c.m. However, the actual condition (disregarding interior decoration) was not in such condition and the Tribunal had to take account of the effect on rent of the following factors:
12.
 - i. the antiquated state of the kitchen/scullery,
 - ii. Severe damp and mould to a wide area of the kitchen
 - iii. Insecure back door
 - iv. Poor bathroom with extensive plaster disrepair around the sink
 - v. One bedroom unheated
 - vi. Mixed single and double glazing
 - vii. Poor external condition
 - viii. The more onerous terms and conditions as compared to an assured shorthold tenancy
 - ix. The absence of modern white goods
 - x. Surface mounted central heating pipework and electrical cabling.
13. The Tribunal determined that these factors required a downward adjustment in market rent of 60% or £1,080 per month. For the above reasons the Tribunal assessed the market rent in accordance with section 14 of the Housing Act 1988 as £720 per month, taking effect from 1 October 2019.

Charles Norman FRICS
31 December 2019

ANNEX - RIGHTS OF APPEAL

- The Tribunal is required to set out rights of appeal against its decisions by virtue of the rule 36 (2)(c) of the Tribunal Procedure (First-tier Tribunal)(Property Chamber) Rules 2013 and these are set out below.
- If a party wishes to appeal against 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.