



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

Case reference : **CAM/00ME/MNR/2020/0006**

Property : **138 Blackamoor Lane Maidenhead Berks
SL6 8RL**

Applicant : **Mr G Headington**

Respondent : **Mr J Davis**

Original Application : **For the determination of a market rent
under Section 14 of the Housing Act 1988**

Application : **Review of Original Decision/Permission to
Appeal**

Tribunal members : **Mary Hardman FRICS IRRV(Hons)**

Original Application : **6 February 2020**

Original Decision : **10 September 2020**

**Application to Review/
Permission to Appeal** : **24 September 2020 (received)**

Date of Decision : **08 October 2020**

DECISION

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Decision

1. The tribunal has considered the respondent's request for permission to appeal received 24 September 2020 and determines that:
 - a. it will not review its decision; and
 - b. permission be refused.
2. In accordance with section 11 of the Tribunals, Courts and Enforcement Act 2007 and rule 21 of the Tribunal Procedure (Upper Tribunal) (Lands Chamber) Rules 2010, Mr Headington may make further application for permission to appeal to the Upper Tribunal (Lands Chamber). Such application must be made in writing and received by the Upper Tribunal (Lands Chamber) no later than 14 days after the date on which the First-tier Tribunal sent notice of this refusal to the party applying for permission to appeal.
3. Where possible, a further application for permission to appeal should be sent **by email** to Lands@justice.gov.uk, as this will enable the Upper Tribunal (Lands Chamber) to deal with it more efficiently. Alternatively, the Upper Tribunal (Lands Chamber) may be contacted at: 5th Floor, Rolls Building, 7 Rolls Buildings, Fetter Lane, London EC4A 1NL (tel: 020 7612 9710).

Original Application

4. The Original Application was made on 6 February 2020 for the determination of a market rent under Section 14 of the Housing Act 1988 by Mr G Headington, the tenant. This was following the service of a notice in the prescribed form dated 20 January 2020 proposing a new 'rent' of £1200 per calendar month to be effective from 27 February 2020.
5. The decision of the First-tier Tribunal was a market rent of £1100.00 per month. The tribunal exercised its discretion under Section 14(7) of the Housing Act 1988 and did not backdate the rent to the beginning of the new period specified in the notice as it accepted that it would cause undue hardship to the tenant. The tribunal decided that the rent would take effect from 10 September 2020, the date of the decision.

Reasons for the decision

6. The letter dated 17 September 2020 (received 24 September 2020) refers to the following grounds of appeal:
 - i) The internal inspection did not take place
 - ii) The case was determined by written representations some of which are not exactly true.

- iii) The allowance for 'white good, carpet and curtains' was reduced from 30% in the previous decision to 25%.
7. The reason for the decision is that the Tribunal had considered and taken into account the points now raised by the Tenant when reaching its original decision. The Tenant has raised no legal arguments in support of the request for permission to appeal.
8. For the benefit of the parties and of the Upper Tribunal (Lands Chamber) (assuming that further application for permission to appeal is made), the tribunal has set out its comments on the specific points raised by in the request for permission to appeal, in the appendix attached.

Mary Hardman FRICS IRRV(Hons)

8 October 2020

APPENDIX TO THE DECISION
REFUSING PERMISSION TO APPEAL

For the benefit of the parties and of the Upper Tribunal (Lands Chamber), the tribunal records below its comments on the grounds of appeal.

Specific comments on the grounds of appeal

Ground 1 - The inspection did not take place.

1. The tribunal originally proposed to inspect this property internally but following the issue of government guidelines in respect of visiting property in the light of the Covid 19 pandemic the tribunal issued a decision on 2 April 2020 to postpone the inspection and determination on the basis that it considered that the case could not be determined on consideration of the documents alone. The applicant had made representations that he was unable to exchange documents by post and/or by e mail on account of being required to self-isolate for health reasons.
2. The tenant wrote to the tribunal confirming that he believed that the matter should not proceed without an inspection.
3. On 6 July 2020 a Procedural Chair reviewed the case. She noted that an inspection of the property by the tribunal had taken place only some two years previously on an earlier appeal and considered that it would not be appropriate nor proportionate to delay the consideration of the matter any further.
4. The Chair issued additional directions requesting that parties submit any additional photographic evidence, details of the condition of the property, any improvements or alterations made and details of other properties should parties wish to rely on rental comparables.
5. A property details form was also sent to both parties to provide details of the accommodation on a room by room basis, the features of the property (central heating, white goods, double glazing, carpets and curtains) and other property attributes.
6. She also stated that the tribunal may use internet mapping applications and conduct an external inspection of the Property without requiring access to the property.
7. The determination would take place based on the submissions from both parties unless either party requests a hearing. Both parties submitted further evidence although the applicant was unable to submit photographs. Neither party requested a hearing.
8. The tenant also wrote to the tribunal on 16 July acknowledging the possibility of an unaccompanied external inspection and said that he would leave the rear coal cellar door unlocked so that this could be viewed.

9. The tribunal member (Regional Surveyor) inspected the property externally on Monday 24th August 2020 including viewing the inside of the coal store from the driveway as the tenant had invited them to do.
10. The tribunal member had regard to all submissions from the parties in arriving at the determination of a market rent, the inspection details in the previous decision of the tribunal, together with its own knowledge and experience. It is within the jurisdiction of the tribunal not to inspect the property internally and it was both fair and just and proportionate in the circumstances to dispense with an internal inspection.

Ground 2 – The case was determined by written representations some of what are not exactly true

11. As detailed above parties were given full opportunity to both make submission and to comment on the submissions made by the other party. Substantial submissions were made, particularly by the tenant and the tribunal had regard to all submissions.
12. During an inspection of the property the tribunal would not have taken further evidence but reviewed the evidence submitted.
13. The landlord comments that he does not appreciate the allegations that false representations have been made and that on his inspection visit in January 2020 nothing appeared to have changed since the tribunal visit in 2018 apart from those things already mentioned in previous correspondence.
14. In his letter to the tribunal of 23 March 2020 the tenant says ‘Nothing has changed since the last inspection as there has been no modernisation apart from the windows and external doors’. The tribunal made their finding on the facts as they saw them – which were not significantly disputed in terms of anything which the tribunal believes impacted the rental value.

Ground 3- The allowance for ‘white good, carpet and curtains’ was reduced from 30% in the previous decision to 25%.

15. It is for the tribunal to assess a market rent for the Property by reference to rental values generally and to the rental values for comparable properties in the locality in particular and then make any adjustments that it believes are appropriate to reflect the actual property.
16. The landlord had installed double glazing throughout the property and in the opinion of the tribunal this meant that the adjustment to be made was less than it might have made had this not been the case. It was of the opinion that, applying its expertise and judgment that a 25% allowance was appropriate.

ANNEX - RIGHTS OF APPEAL

As the application for permission to appeal the decision is refused, an application for permission to appeal against that refusal may be made to the Upper Tribunal under the Tribunals, Courts and Enforcement Act 2007, the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 and The Tribunal Procedure (Upper Tribunal)(Lands Chamber) Rules 2010. An application to the Upper Tribunal (Lands Chamber) for permission must be made within **14 days** of the date on which the First-tier Tribunal sent you the refusal of permission.