



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

Case reference : **LON/00AG/NNR/2019/0138P**

Property : **Flat B, 27 Delancey Street,
London NW1 7RX**

Applicant : **Saul Figueroa-Diaz**

Respondent : **Cremer Housing Association Limited**

Date of application : **21 September 2019**

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

Tribunal members : **Mr I B Holdsworth FRICS MCI Arb
Mr J E Frances QPM**

**Date of and venue of
determination** : **31 July 2020
Paper hearing**

DECISION

This has been a remote hearing on paper which has not been objected by the parties. A face to face hearing was not held because all issues could be determined on paper. The documents referred to in this Decision are in a submitted bundle of 149 pages the contents of which are noted.

**The Tribunal determines that the rent payable is £400 per week
effective from 29 October 2019**

Background

- 1 The landlord made an application on the 21 September 2019 to increase the rent from £110 per week to £250 per week effective from 1 November 2019.
- 2 The tenant made an application to the Tribunal dated 29 October 2019 for this to be determined.
- 3 The parties did not request an oral hearing.
- 4 Directions were sent to both parties by the Tribunal on 6 November 2019 and these were followed by subsequent revised Directions dated 4 March 2020. These asked the parties to submit relevant information to the Tribunal to assist in their determination.
- 5 A written representation was received from the landlord dated 29 November 2020, which explained and described the property and provided additional comparable rental evidence.
- 6 The tenant made a written representation dated 12 December 2019, in which he drew attention to the comparable rental transaction evidence taken from the same development. The tenant also highlighted the significant increase that was being proposed and the extent of space offered by the subject property.
- 7 An initial jurisdiction determination was made by the Tribunal. It was determined that although there was a minor error in the Notice this did not constitute a fatal flaw and the Notice was valid.
- 8 The landlord contends that the property has a market rental in present condition in the range £450-£500 per week. This is based upon market appraisals carried out by three local letting agents. The landlord also relied upon an indicative valuation prepared by the Valuation Office under reference *No FR/0051872/18* of Flats A and C. No date is provided for these rental valuations or supporting explanation.

The law

- 9 The Tribunal must first determine that the landlord's notice under section 13(2) satisfied the requirements of that section and was validly served.
- 10 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.
- 11 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.
- 12 A copy of the relevant legislation is at Appendix A.

Valuation

- 13 Using the evidence supplied by the landlord on comparable rental transactions and their own knowledge and experience of rental levels in and around the Camden area, the Tribunal was of the opinion that, if the flat was in the same condition as those available to let on the open market, the rental value would be approximately £450 per month.
- 14 The tenant has carried out some minor improvements to the dwelling and the value of these is disregarded.
- 15 At the Tribunal's inspection it noted the relatively small area of the flat, particularly the galley kitchen and small bathroom/WC. The Tribunal considered these matters material to their determination.
- 16 After careful consideration the Tribunal determined a weekly rental of £400 was appropriate for this dwelling in present condition. Details of the rental valuation is shown in the table below:

Flat b 27 Delancy Street London NW1 7RX				
<i>Market rent calculation in accordance with Housing Act 1988 Section 13</i>				
Market rent			£450.00	per week
Disregards			Deduction per week	Deduction as %
Laminate flooring			£9.00	2.00%
Part furnished by tenant			£9.00	2.00%
Dilapidations/Material rental matters				
Older style sanitary fittings			£18.00	4.00%
Restricted Kitchen space			£18.00	4.00%
		Adjustment total	£54.00	12.00%
Adjusted Market Rent			£396.00	per week

Decision

- 1 The Tribunal first determined that the Tribunal's Notice under Section 13(2) satisfied the requirements of that Section and was served in time.
- 2 In coming to its decision on the rent the Tribunal applied the above law.
- 3 Having done so, the Tribunal determined that the rent at which the property in current condition might reasonably be expected to be let on the market would be £400 per week. This rent will take effect from 29 October 2019.

Name: Ian Holdsworth
Valuer Chairman

Date: 18th October 2020

Appendix A

Housing Act 1988

14 Determination of rent by rent tribunal.

- (1) Where, under subsection (4) (a) of section 13, a tenant refers to a rent tribunal 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 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.