

Notice of the Tribunal Decision and Register of Rents under Assured Periodic Tenancies (Section 14 Determination)

Housing Act 1988 Section 14

Address of Premises

90 Saltram Crescent, London, W9 3JX

The Tribunal members were

Judge Daley
Mr K Ridgeway MRICS
Mr A Ring-Lay Member

Landlord

Barry and Diane Summers

Address

2 Bayham Abbey Farm Buildings, Little Bayham, Kent, TN3 8BG

Tenant

Dr Oliver Schwickerath

1. The rent is: £

1450

Per

Calendar month

(excluding water rates and council tax but including any amounts in paras 3)

2. The date the decision takes effect is:

26 July 2021

3. The amount included for services is not applicable

N/A

Per

4. Date assured tenancy commenced

April 2005

5. Length of the term or rental period

Assured periodic

6. Allocation of liability for repairs

As per tenancy agreement and Section 11 of the Landlord and Tenant Act 1985

7. Furniture provided by landlord or superior landlord

N/A

8. Description of premises

A first floor flat, comprising 2 bedrooms, a living room/open planned kitchen, a small room used as a study, and bathroom/WC

Chairman

Judge Daley

Date of Decision

26 July 2021



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

Case reference : LON/00AH/MNR/2020/0026

Property : 90 Saltram Crescent, London W9
3JX

Applicant : Oliver Schwickerath

Respondent : Barry and Diane Summers

Type of application : Section 13, Housing Act 1988

Tribunal member(s) : Judge Daley
Mr K Ridgeway MRICS
Mr A Ring -Lay member

Date and venue of hearing : On 26 July 2021 at 10 Alfred Place,
London WC1E 7LR

Date of decision : extended reasons dated 12 August
2021

DECISION

Decisions of the tribunal

(1) The sum of £1450.00 PCM is determined as the rent with effect from 26 July 2021.

The application

Background

1. By an application received on 25 February 2020 the tenant of the above property referred to the Tribunal a notice of increase of rent, dated 23 January 2020 under section 13 of the Housing Act 1988.
2. The landlord's notice, which proposed an increase in the rent from £1350.00 PCM to £1700.00 per calendar month was dated 23 January 2020, and proposed a starting date for the new rent of 1 March 2020.
3. The assured tenancy, which commenced in April 2005, is in respect of a first floor flat, comprising 2 bedrooms, a living room/open planned kitchen, a small room used as a study, and bathroom/WC.
4. On 17 March 2020 directions were given to determine this matter. Further directions were given on 17 May 2021. The directions stated that:- "...Due the Covid -19 pandemic this case was stayed. There had been a request for a face- to- face hearing and unfortunately it has not been possible to provide that forum until now".
5. The directions set the case down for hearing on 26 July 2021, the parties were notified that a physical inspection would not be possible and were encouraged to provide the Tribunal with as much information regarding the property as possible.
6. A hearing was held on 26 July 2021. The Tenant Mr Schwickerath attended the hearing, and Mr Barry Summers attended on behalf of the Respondents.

The representations from the tenant

7. At the hearing, the Applicant set out his opposition to the rental increase, in similar terms to his written statement, in which he stated-“ ... the proposed rent increase to £1700PCM does not reflect the current rental market value of the middle flat ... in particular if the more recent realities of adjustments and downwards trends in the rental and property market are to be taken into account...”. Mr Schwickerath in his lengthy submissions set out the length of time that he had occupied the property, the history between himself and the landlord, and information about the layout and current condition, and how in his view this affected the market rent for the property. His view was that the current rent of £1,300 was reflective of the market.
8. He also sought to support his submissions with details of the current state of the property, including photographs, some of which depicted the state of the

living room window prior to repairs being carried out. He also stated that there was a problem with rat infestation at the property (he enclosed photographs) and argued that the common parts were untidy and the stairs un-swept.

9. Mr Schwickertath referred to the effects of the pandemic, and the difficulties caused by delays in renting property as factors which we should consider in determining the level of the rent. He stated that there has been very little, if any increase in rents over the last few years. He provided the Tribunal with various properties which he wished us to take into account as comparables.

The representations from the Landlord

10. The landlord had also provided written submissions. In his submissions, he set out that in his view based on the evidence, the actual market rent for a property in the subject area. He did not accept that the properties relied upon by the tenant were accurate comparators by reason of their size and location. He provided a range of comparables with asking rents of £1950 PCM.
11. Mr Summers also provided details of an independent valuation which he had had undertaken for the premises at £1650 PCM.
12. He also provided details of work which had been undertaken at the property such as double glazing to the windows within the property and the associated decorations. Mr Summers also noted that the subject flat was the only one which had reported problems with pest infestation, in spite of the fact that it was the middle property.
13. The Tribunal asked the tenant to address it concerning the question of hardship, in relation to when the rent increase if granted should take effect. Mr Schwickerath stated that although he was in receipt of housing benefit, this was subject to a cap, and this meant that any amount over the capped amount, would be payable by him. Mr Summers set out that the property had been purchased as an investment which was subject to a large mortgage.

The law

14. In accordance with the terms of section 14 Housing Act 1988 (the Act) the Tribunal proceeded 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.
15. In so doing the Committee, as required by section 14(1), ignored the effect on the rental value of the property of any relevant tenant's improvements as defined in section 14(2) of that Act.

The Valuation

16. The Tribunal considered the submissions of both parties. The Tribunal accepted that although Mr Summers had provided details of rents of properties at £1900, the Tribunal accepted that these were asking rents. In reaching the decision the tribunal considered the level of rents which were payable at the date of the notice of increase, which was 1 March 2020. The Tribunal decided that the Market rent for a property, let in a condition usual for the market in that area, would be in the range of £1,800.00 PCM.
17. However, the property was not in a condition usual for a market letting. Thus in the first instance the Tribunal determined what rent the landlord could reasonably be expected to obtain. The Tribunal noted that the kitchen and the bathroom were somewhat dated, and the property in its existing condition lacked modern white goods, had a dated, reportedly noisy boiler, and lacked curtains and carpets. To reflect this the Tribunal made a deduction of approximately 20%, which the Tribunal rounded up to £1450.00 PCM. The Tribunal accepted that to apply the increased rent from the date in the notice, would put the tenant in arrears which would cause hardship.

The Decision

- 18. The Tribunal having taken into account the factors set out above determines that the market rent is confirmed at £1450.00 per calendar month. The Tribunal accepted evidence of hardship and accordingly decided that the rent will take effect from 26 July 2021, being the date of the hearing.**

Name: Judge Daley

Date: 12 August 2021