



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

Case Reference : **LON/00AY/MNR/2016/0093**

Property : **Flat 3, 80 Upper Tulse Hill, London
SW2 2RP**

Applicant : **Mr Kypros Loizou**

Respondent : **Willis Estates Limited**

Representatives : **Mr Edward Willis**

Type of Application : **Section 13(4) Housing Act 1988
("the Act")**

Tribunal Members : **Mr C Norman FRICS
Valuer Chairman
Mr O N Miller**

**Date and venue of
Hearing** : **30 July 2021
10 Alfred Place, London WC1E 7LR**

Date of Decision : **4 August 2021**

Date of Reasons : **14 September 2021**

REASONS

Background

- 1 On 2 December 2019 the tenant, Mr Kypros Loizou, of Flat 3, 80 Upper Tulse Hill, London SW2 2RP (“the property”) referred to the First Tier Tribunal a notice of increase of rent served by the landlord, Willis Estates Limited, under section 13 of the Act.
- 2 The notice, dated 25 November 2019, proposed a rent of £216.61 per week, with effect from 26 December 2019.
- 3 The tenancy is a statutory periodic tenancy which commenced in 1996. The rent payable prior to the proposed increase was £150 per week as determined by the Tribunal in 2016. Prior to that, the rent was determined by a rent assessment committee in 2012, also at £150 per week.
- 4 Owing to the Pandemic the Tribunal was not carrying out inspections of properties although it received an external photograph. However, the 2016 Tribunal described the property as follows:

“It is a one bedroomed self-contained converted flat on the first floor of a former inner terrace four storey house built in about 1890 of brick and slate and set back behind a walled and gated front courtyard. The accommodation comprised two rooms, kitchen and shower/wc; there is no fixed heating system. The building appears to be in fair repair and external decorative condition though the internal common parts are shabby. The flat itself is in good repair and decorative condition.”

The Evidence

- 5 The tenant requested a face to face hearing and Directions were given on 17 May 2021 setting the case down for a hearing in person on 30 July 2021. Previous directions were issued on 15 September 2020.
- 6 At the hearing Mr Loizou explained the scope of the work he done had to the flat. When he took the tenancy there was just an old fashioned sink in the kitchen and what he called a tin shower and high flush WC in the bathroom. He had installed a new shower unit, low flush WC and wash hand basin as well as tiling in the bathroom, and fitted the kitchen, the sink unit, electric hob and fan, put down hard wood flooring and recessed ceiling lights. He had decorated throughout, changed the elements in the water heater and renewed parts of the electrical wiring. He had even, though some years ago, put down the stair and hall carpet. He complained the landlord does nothing, he had to replace his hall ceiling when it collapsed.
- 7 Willis Estates in their written representations dated 26 February 2020 summarised the terms of the tenancy, which commenced on 17 August 1996 and was initially for a year certain. The landlord stated that the kitchen and bathroom units are the landlords as is the hot water system. The effective floor area is 33.3 sq. m (359 sq. ft.). White goods are provided by the tenant. The landlord stated that services provided included entry doorbell and electricity and lighting to common parts, upkeep of communal entrance path

and gateway, decoration and periodic cleaning to common parts. Repairs decoration common parts maintaining mains water and drainage and insurance of the building.

- 8 The landlord submitted that the flat should be considered to have been originally let in good decorative order and in its current condition or similar. The landlord disagreed with the tenant's previous claim of substantial improvements regarding shower room and putting up wall units in the kitchen as being reason to significantly reduce the rent. The tenant had previously grossly exaggerated the condition at the start of the tenancy and the landlord submitted that works done to the flat by the tenant prior to the present landlord ownership in 2005 were offset by the rent free/reduced rent use of the ground floor shop unit as it was. These fixtures and fitting should not be disregarded when market rent was fixed. The landlord supported this contention by various hearsay statements and a reputed rent statement from the previous landlord Mr Jollands. However, there was no documentary evidence or witness statement before the tribunal supporting these submissions. The landlord also stated that the tenant refused access for the landlord to carry out repairs.
- 9 The landlord relied upon the local housing allowance taken from the Valuation Office Agency website, which takes the 30th percentile of market rents in the area for one-bedroom flats. For November 2019 this was £216.51 per week, in the vicinity. Mr Willis then explained that because this related to an intermediate market rent the actual mean market rent would be at the 50th percentile which would equate to £288.68 per week. Mr Willis also referred to a market search which showed an average of the seven nearest properties at £302 per week as a starting point market rent. He then referred to lettings within the subject property which he described as "the best comparables".
- 10 Flat 4, 80 Upper Tulse Hill, was half the size the subject flat. The effective area was 21.36 m². This was let at £180 per week for 24 months from June 2019. It was refurbished in 2010. This equated to £438 per sq. m per annum.
- 11 Flat 5, 80 Upper Tulse Hill was only 1/3 of the size the subject property being 11.48 m². This was let from 17 March 2024 12 months at £183 per week. It was refurbished in 2016. This equates to a rent of £829 per sq. m per annum. The combined areas of Flats 4 & 5 aggregate to that of the subject flat.
- 12 Two other flats in the building are below the subject property. Flat 2 is a small 2 bed flat of 40.78 sq. m. This was refurbished in 2006 and redecorated in 2010. It was last let on 15 September 2017 with a fixed increase to £311.54 per week. This equates to £341 per annum per sq. m.
- 13 Flat 1, 80 Upper Tulse Hill is a small 2 bed basement flat of 44.13 sq. m. This was refurbished in 2006 and now let at £281.45 per week to a housing benefit tenant. This equates to a rent per sq. m per annum of £341 per annum. The average rent per sq. m per annum from these lettings was £501 which when applied to the subject flat equated to £321 per week.

- 14 The landlord accepted that a deduction would be needed to reflect the fact that the subject property was an assured as opposed to an assured shorthold tenancy, and also to reflect the differences at the subject property compared to comparables. The landlord submitted that a 20% allowance was appropriate.

The Law

- 15 In accordance with the terms of section 14 of the Act, the Tribunal is required to determine the rent at which it considers the property might reasonably be expected to let in the open market by a willing landlord under an assured tenancy on the same terms as the actual tenancy ignoring any increase in value attributable to tenant's improvements and any decrease in value due to the tenant's failure to comply with any terms of the tenancy. Thus the property falls to be valued as it is but assuming a reasonable internal decorative condition.

Findings

- 16 The landlords' hearsay statements are insufficient evidence to prove, on the balance of probabilities, the basis upon which the property was originally let. In particular, it has not proved that the terms required the tenant to carry out improvements, as a condition of his tenancy. Therefore the Tribunal was required to disregard these improvements.
- 17 On the evidence of the comparable lettings and the landlord's other submissions, the Tribunal accepts the evidence of lettings within the property and gives this the most weight. The Tribunal finds that the subject property if modernised and in good order would let on normal AST terms for £320 per week.
- 18 An Assured Shorthold tenancy would include carpets, curtains and "white goods" and the tenant would not have an internal decorating obligation. To reflect these differences in letting terms, the Tribunal makes an allowance of 5%. The subject property is to be valued without central heating and the Tribunal makes a further deduction of 10% to reflect this.
- 19 The Tribunal also disregards the tenants' improvements in relation to the shower room kitchen and electrical works. To disregard the effect on value of those improvements, the Tribunal makes a further deduction of 20%. The aggregate deduction is therefore 35% (£112 per week) leaving a rent of £208 per week as the market rent determination.
- 20 The rent will take effect from 26 December 2019, being the date given in the notice.