



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

Case Reference : **JM/LON/00AG/MNR/2021/0120**

Property : **Unit 14 2 Osnaburgh Street London
NW1 3DF**

Applicant : **Ms Inna Van Dijk**

Respondent : **Origin Housing**

Date of Application : **28 May 2021**

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

Tribunal : **Mr Charles Norman FRICS**

**Date of
Hearing** : **20 December 2021**

Date of Decision : **12 January 2022**

DECISION

Covid-19 pandemic: description of hearing

This has been a remote determination on the papers which has been not objected to by the parties. The form of remote hearing was P:PAPERREMOTE. A face-to-face hearing was not held because it was not practicable, and all issues could be determined on paper. The documents that the Tribunal were referred to are in a bundle of approximately 50 pages, the contents of which have been noted.

Decision

The market rent as at 1 June 2021 is £1,675 per month.

Reasons

Background

1. On 28 May 2021 the tenant of the above house referred to the Tribunal a notice of increase of rent served by the landlord under section 13 of the Housing Act 1988.
2. The landlord's notice, which proposed a rent of £1,360.10 per month with effect from 1 June 2021, is dated 19 February 2021.
3. The tenancy is a periodic tenancy which commenced 17 November 2015.
4. Prior to the hearing the Tribunal received written representations from both the landlord and the tenant. At the hearing the tenant appeared in person and the landlord was represented by Mrs Leanne Joseph a service charge officer at Origin Housing.

The Evidence

5. Mrs Joseph explained that the tenancy was an Intermediate tenancy consequently the rent payable was 80% of the open market rental value. The current proposed rent was a 1.5% increase on the rent set by the Tribunal in 2019, which was not increased during the preceding financial year.
6. The tenant had not reported disrepair. The tenant had not reported issues regarding communal cleaning which had been carried out. The carpets were not in poor condition but showed signs of wear. Window cleaning was suspended due to Covid. The ceiling in the tenant's living room had been repaired. There was evidence of anti-social behaviour (littering and food waste) in the common parts and the landlord had written to tenants about this.
7. As the Tribunal is not currently carrying out inspections it has had regard to the description given in the Tribunal Reasons of 26 September 2019 which stated:

“Inspection

The Tribunal inspected later in the day. The development, which is situated at the junction with Longford Street, is approximately 10 years old and comprises the subject property, a seven storey block, and Number 1 Osnaburgh Street, a 20 storey block with double height attractive entrance hall. The flats in the tower are afforded views over

Regents Park. The subject block being to the rear of the tower provides views over the street or internal communal garden. The development is close to all local amenities including within walking distance of three tube stations.

The entrance to the block is via a small unprepossessing carpeted hall housing the letterboxes for the flats, two passenger lifts are located behind the entrance hall and access to the communal garden between the hours of 7am and 8pm is off this rear area. The carpet in the entrance hall was grubby and that leading to the flat plus the ceiling above it is stained.

The flat comprises a good-sized living room with open plan kitchen fitted with a range of basic units, including oven with hob, fridge freezer and washing machine. There is access to a small balcony overlooking the communal garden. The repair to the ceiling is clearly visible and the laminate floor is cracked in several places. The bedroom is a small double with little scope for storage; the bathroom has a shower over the bath via mixer taps and part tiled walls.”

The law

8. In accordance with the terms of section 14 Housing Act 1988 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.
9. In so doing the Tribunal, 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.

Valuation

10. In coming to its decision, the Tribunal had regard to the evidence supplied by the parties and the Member's own general knowledge of market rent levels in the area of Marylebone. The Tribunal explained that as neither party had referred to comparables, the Tribunal would have to rely on its own knowledge and experience.
11. In determining the rental value of the subject flat the Tribunal has taken into account all the factors in respect of the standard and condition of both the common parts and the flat, the quality of fittings and flooring and the terms of the tenancy.

The decision

12. The Tribunal concluded that the rent at which the property might reasonably be expected to be let on the open market is £1,675 per month. This is not the

13. rent payable under the terms of the tenancy which is capped at 80% of the open market rent, that is £1340 per month.
14. The rent has been assessed as at 1 June 2021 in accordance with the landlord's notice.

Chairman: Charles Norman FRICS **Date:** 12 January 2022

ANNEX - RIGHTS OF APPEAL

- i. If a party wishes to appeal 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.
- ii. 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.
- iii. 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.
- iv. 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.

Appendix

Housing Act 1988

14 Determination of rent by rent assessment committee.

(1) Where, under subsection (4) (a) of section 13, a tenant refers to a rent assessment committee 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 to by a tenant as mentioned in subsection (1) above, an improvement is a 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....