



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

Case reference : **JM/LON/00AJ/MNR/2022/0057**

HMCTS CODE ; **P:Paper Determination.**

Property : **170 Makepeace Road, UB5 5UH.**

Applicant : **Ms. N. Ryabova.**

Representative : **In person.**

Respondent : **Mears Housing Management
Limited on behalf of Plexus UK
(First Project) Limited.**

Representative : **In person.**

Type of application : **Decision under S.13 Housing Act
1988.**

Tribunal member(s) : **Tribunal Judge Aileen Hamilton-
Farey.**

Date of decision : **10 June 2022.
Reasons dated 13 June 2022.**

DECISION

Covid-19 pandemic: description of hearing

This has been a remote paper determination which has been consented to/not objected to by the parties. The form of determination was P:Paper Remote A face-to-face hearing was not held because it was not practicable, and all issues could be determined on the papers. The tribunal was provided with the Notice of Increase and submissions from the landlord and tenant. Including details of comparable properties.

Decision:

The Tribunal determines the market rent for the property in its current condition to be £270.41 per week. The determination takes effect from 4 April 2022. The reasons for the tribunal's decision are below.

Background:

1. The tenant, Ms. Ryabova entered into an assured shorthold tenancy agreement of the premises on 2 May 2017. The property is a two bedroom, living room kitchen and bathroom first floor flat, close to local amenities including transport links.
2. The landlord served a notice of increase under S.13 of the Housing Act 1988 on or around 21 February 2022 proposing a rent increase from \$251.50 per week to £270.41 per week with effect from 4 April 2022. At the start of the tenancy the rent passing was £229.65
3. Ms. Ryabova referred that notice to the tribunal on 1 April 2022.

The Tenant's Evidence:

4. Ms. Ryabova says that the property is in poor condition and that repairs have not been carried out, or have taken some time to be carried out by the landlord. She says that the bathroom fittings are old and worn, as are the carpets, which were affected by a water leak, but not replaced by the landlord. She has provided evidence from her local nurse to substantiate the flooding claim. This letter is dated 18 December 2017 and therefore precedes the notice of increase by over four years.
5. Ms Ryabova also says that the furnishings in the property are damaged, are of poor quality and require replacement, the wallpaper has been painted over with poor quality paint and that cracks are appearing in plasterwork. In her opinion the property requires redecoration and refurbishing.
6. She finally says that she was told this property would be let at a London Affordable Rent, and that her salary has decreased due to the rise in National Insurance contributions, with the rent rising 18%. Several photographs have been supplied in evidence.

The Landlord's Evidence:

7. Mr. Taylor the landlord's representative provided details of similar properties for rent in the local area, the rentals of which varied from £1,300 - £1,350 per calendar month. This equates to £300 - £311 per week.
8. The landlord has no made any comment regarding the allegations of disrepair.

Determination:

9. The tribunal's jurisdiction is limited to determining what the market rent for the property would be if presented to the market in its' current condition. We cannot take into consideration the personal circumstances of the landlord or tenant, nor can we take into consideration whether this is an 'affordable rent'.
10. Taking into consideration that some of the fixtures and fittings are showing signs of age, the tribunal finds that the landlord would have to reduce the asking rent to reflect the fact that the property was not newly refurbished.
11. The tribunal is also aware that some of the evidence relied on by the applicant in relation to the water leak is very old, and her evidence confirms that the leak was repaired the day it was reported, and therefore no longer relevant for rental purposes.
12. In the circumstances, the tribunal confirms the rent as set out in the notice of increase at £270.41 per week, with effect from 4 April 2022, and that this rental reflects the slightly dated fixtures and fitting sin the property.

Name: Aileen Hamilton-Farey **Date:** 13 June 2022.

Rights of appeal

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

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.

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.

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.

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.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).

THE LAW:

S.13 The Housing Act 1988. – Increases of rent under assured periodic tenancies:

13(1); This section applies to –

- (a) A statutory periodic tenancy other than one which, by virtue of paragraph 11 or paragraph 12 in Part I of Schedule 1 to this Act, cannot for the time being an assured tenancy; and
- (b) Any other periodic tenancy, which is an assured tenancy, other than one in relation to which there is a provision, for the time being binding on the tenant, under which the rent for a particular period of the tenancy will or may be greater than the rent for an earlier period.

13(2) For the purpose of securing an increase in the rent under a tenancy to which this section applies, the landlord may serve on the tenant a notice in the prescribed form proposing a new rent to take effect at the beginning of a new period of the tenancy⁶ specified in the notice, being a period beginning not earlier than –

- (a) The minimum period after the date of the service of the notice; and
- (b) Except in the case of a statutory periodic tenancy –
 - a. In the case of an assured agricultural occupancy, the first anniversary of the date on which the first period of the tenancy began.
 - b. In any other case, on the date that falls 52 weeks after the date on which the first period of the tenancy began; and
 - c. If the rent under the tenancy has previously been increased by virtue of a notice under this subsection or a determination under S.14
 - i. In the case of an assured agricultural occupancy, the first anniversary of the date on which the increased rent took effect.
 - ii. In any other case, the appropriate date.

(3) the minimum period referred to in subsection (2) above is.

- (a) in the case of a yearly tenancy, six months.
- (b) in the case of tenancy is less than a month, one month, and
- (c) in any other case, a period equal to the period of the tenancy.

(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, in respect of council tax 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.

S.14 Determination of rent by the tribunal:

(1) Where under subsection (4)(a) of Section 13, a tenant refers to the appropriate tribunal a notice under subsection (2) if that section, the appropriate tribunal shall determine the rent at which, subject to section (2) and (4) above, the appropriate tribunal 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 notices relates; and

(d) in respect of which the same notices, if any, have been given under any of the grounds 1 to 5 of Schedule 2 to the 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 cost 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.

