



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

Case reference : **LON/00BG/MNR/2022/0051**

Property : **21 Gwilym Maries House Canrobert
Street E2 0BG**

Applicant : **Mr Joynul Hoque**

Representative :

Respondent : **Tower Hamlets Community Housing
Limited**

Representative :

Type of application : **Market Rent under s13 & 14 of the
Housing Act 1988**

**Tribunal
member(s)** : **Mr Mark Taylor MRICS**

**Date and venue of
hearing** : **Paper remote**

Date of decision : **10th June 2022**

**Date of reasons for
the decision** : **17th June 2022**

DECISION

Decision of the tribunal

- (1) The tribunal determines that the market rent is £254.00 per week.
- (2) The tribunal makes the determinations as set out under the various headings in this decision.

The application

1. The applicant seeks a determination pursuant to section 13 & 14 of the Housing Act 1988 following the service of a notice dated 25th February 2022 by the landlord proposing a rent increase to £136.65 per week (£156.36 inclusive of service charge) from 4th April 2022, rising from the rent previously payable of £131.27 (£144.84 inclusive of service charge) per week.
2. On 1st April 2022 the Tribunal received an application under section 13 of the Housing Act 1988. The landlord's covering letter dated 25th February 2022, but not the notice of rent increase, was included with the application. This notice was subsequently provided by the tenant and is dated 25th February 2022 and in the correct form and content
3. On 12th April 2022 the Tribunal issued directions.
4. The applicant was content for the matters to be determined without a hearing. The Respondent did not return the reply form sent by the Tribunal. Inspections are still not being routinely undertaken due to restrictions imposed by Covid-19.
5. The applicant made submission in the reply to the Directions. The Respondent made no submissions.

Background

6. The applicant has been a tenant at 21 Gwilym Maries House Canrobert Street, London E2 OBG ("the property") since 2021. There is no copy of the agreement with the occupation effected by a mutual assignment which the landlord permits to facilitate exchange between tenants of its property portfolio. The rental period of the property is confirmed as weekly.
7. The property is a flat on the first and second floors the tenancy includes sole use of four rooms, kitchen, bathroom and a WC.
8. The property has the benefit of central heating and double glazing but is unfurnished and all coverings and white goods have been provided by the tenant.

9. The property is located on the Mansford Estate which was constructed in a range of property types from the early 1950's through to the mid 1970's it would appear that the subject property was constructed in the latter part of that date range as a distinct block of approximately 30 units. We understand that there is no lift and that the landlord is responsible for all external and the majority of internal repairs. There are also management services provided including the cleaning of common parts and bulk rubbish disposal which are supplied at an additional charge to the rent.
10. By an undated letter and reply to Directions the applicant made submissions opposing the rent increase. These include: -
 - (a) That the property is in an unmodernised state with some facilities not replaced for approximately 30 years. There is no central heating to the kitchen and that utility bills are high due to the poor thermal performance of the property. Being above ground floor, the absence of a lift is inconvenient.
 - (b) The common parts of the property are dirty without regular or sufficient cleaning.

Evidence

11. No directly comparable properties in the open market were provided by the tenant, albeit reference was made to a relative occupying a larger nearby property and paying less rent in accommodation provided by a social landlord.
12. Two web links to BBC and My London news sites were provided. These articles provided some general information on disputed issues between tenants of the Mansford estate with Tower Hamlets Community Housing but their specific thrust was around poor conditions in Charles Dickens House.
13. Whilst reference has been made to issues of service and condition there is no evidence to suggest that the subject property is in a similar state to the parlous conditions indicated in photographs taken by the tenants in Charles Dickens House

The Law

14. We must first determine that the landlord's notice under section 13(2) satisfied the requirements of that section and was validly served.

15. The Housing Act 1988, section 14 requires us 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.
16. In so doing we are 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.
17. Under this jurisdiction we are only able to determine the rent payable and not the payability or reasonableness of any service charges. Physical factors such as an abnormal level of charge or lack of provision are only taken into account so far as they might affect the level of rent payable or marketability of a property. Comparable properties in the market would also be commonly let on the basis of the landlord paying for most services with the exception of utilities

Valuation

18. In coming to its decision, the tribunal had regard to the representations made by the tenant. We are not entitled to have regard to the financial position of the landlord or of the tenant. The matters we are required to take into account are set out in section 14 of the Act which we have summarised above.
19. The tribunal taking all of this into account considered that property would be worth £1900.00 per month in the open market in fully modernised condition. However, taking into account the terms and conditions, the tenant's own carpets, curtains, white goods and its unmodernised kitchen and bathroom and poorly maintained common parts a deduction of £800 per month was applied and the reduced market rent to be determined for this property is £254.00 per week.

Effective date

20. Under s14 (7) of the Housing Act 1988 the effective date of the decision would normally be the date shown on the application unless there is hardship to the tenant. Whilst there was mention of hardship on the part of the tenant this did not appear sufficient to move the effective date from the date of application. Albeit, that the rent proposed was less than this determination.
21. It is often the case that market rents are in excess of those that maybe charged by social landlord's as it is a significant part of their remit to provide affordable housing. As such depending on the type of tenancy agreement their calculation of rent is either at a percentage of market rent or by way of index. Comparison is made with the open market rather than limited to other properties which are offered by social housing

providers. It is assumed that the landlord will by usual convention of social landlord's not seek to increase the rent proposed in its original notice as a result of this determination.

Name: Mark Taylor MRICS (Valuer
Chair)

Date: 17th 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 LEGISLATION

Housing Act 1988

s.13.— Increases of rent under assured periodic tenancies.

- (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 be 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.
- (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 tenancy 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—]
 - [
 - (i) in the case of an assured agricultural occupancy, the first anniversary of the date on which the first period of the tenancy began;
 - (ii) 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 section 14[below—]
 - [
 - (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.
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- (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 a tenancy where the period is less than a month, one month; and
 - (c) in any other case, a period equal to the period of the tenancy.
- [
- (3A) The appropriate date referred to in subsection (2)(c)(ii) above is—
- (a) in a case to which subsection (3B) below applies, the date that falls 53 weeks after the date on which the increased rent took effect;
 - (b) in any other case, the date that falls 52 weeks after the date on which the increased rent took effect.
- (3B) This subsection applies where—
- (a) the rent under the tenancy has been increased by virtue of a notice under this section or a determination under section 14 below on at least one occasion after the coming into force of the Regulatory Reform (Assured Periodic Tenancies) (Rent Increases) Order 2003; and

(b) the fifty-third week after the date on which the last such increase took effect begins more than six days before the anniversary of the date on which the first such increase took effect.

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(4) Where a notice is served under subsection (2) above, a new rent specified in the notice shall take effect as mentioned in the notice unless, before the beginning of the new period specified in the notice,—

(a) the tenant by an application in the prescribed form refers the notice to [the appropriate tribunal] ; or

(b) the landlord and the tenant agree on a variation of the rent which is different from that proposed in the notice or agree that the rent should not be varied.

(5) Nothing in this section (or in section 14 below) affects the right of the landlord and the tenant under an assured tenancy to vary by agreement any term of the tenancy (including a term relating to rent).

s.14.— Determination of rent by [tribunal] .

(1) Where, under subsection (4)(a) of section 13 above, a tenant refers to [the appropriate tribunal] a notice under subsection (2) of that section, the [appropriate tribunal]³ shall determine the rent at which, subject to subsections (2) and (4) below, the [appropriate tribunal]³ 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 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.

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(3A) In making a determination under this section in any case where under Part I of the Local Government Finance Act 1992 the landlord or a superior landlord is

liable to pay council tax in respect of a hereditament (“the relevant hereditament”) of which the dwelling-house forms part, the [appropriate tribunal] shall have regard to the amount of council tax which, as at the date on which the notice under section 13(2) above was served, was set by the billing authority—

- (a) for the financial year in which that notice was served, and
- (b) for the category of dwellings within which the relevant hereditament fell on that date,

but any discount or other reduction affecting the amount of council tax payable shall be disregarded.

(3B) In subsection (3A) above—

- (a) “*hereditament*” means a dwelling within the meaning of Part I of the Local Government Finance Act 1992,
- (b) “*billing authority*” has the same meaning as in that Part of that Act, and
- (c) “*category of dwellings*” has the same meaning as in section 30(1) and (2) of that Act.

(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.

(5) Where any rates in respect of the dwelling-house concerned are borne by the landlord or a superior landlord, the [appropriate tribunal] shall make their determination under this section as if the rates were not so borne.

(6) In any case where—

- (a) [the appropriate tribunal] have before them at the same time the reference of a notice under section 6(2) above relating to a tenancy (in this subsection referred to as “the section 6 reference”) and the reference of a notice under section 13(2) above relating to the same tenancy (in this subsection referred to as “the section 13 reference”), and
- (b) the date specified in the notice under section 6(2) above is not later than the first day of the new period specified in the notice under section 13(2) above, and
- (c) the [appropriate tribunal]² propose to hear the two references together, the [appropriate tribunal] shall make a determination in relation to the section 6 reference before making their determination in relation to the section 13 reference and, accordingly, in such a case the reference in subsection (1)(c) above to the terms of the tenancy to which the notice relates shall be construed

as a reference to those terms as varied by virtue of the determination made in relation to the section 6 reference.

(7) Where a notice under section 13(2) above has been referred to [the appropriate tribunal] , then, unless the landlord and the tenant otherwise agree, the rent determined by [the appropriate tribunal] (subject, in a case where subsection (5) above applies, to the addition of the appropriate amount in respect of rates) shall be the rent under the tenancy with effect from the beginning of the new period specified in the notice or, if it appears to [the appropriate tribunal] that that would cause undue hardship to the tenant, that that would cause undue hardship to the tenant, with effect from such later date (not being later than the date the rent is determined) as the committee may direct.

(8) Nothing in this section requires [the appropriate tribunal] to continue with their determination of a rent for a dwelling-house if the landlord and tenant give notice in writing that they no longer require such a determination or if the tenancy has come to an end.

(9) This section shall apply in relation to an assured shorthold tenancy as if in subsection (1) the reference to an assured tenancy were a reference to an assured shorthold tenancy.