



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

Case Reference : **JM/LON/00BK/MNR/2022/0046**

HMCTS Code (paper, video, audio) : **Hearing**

Property : **Flat A, 210 Ashmore Road,
London, W9 3DD**

Tenant : **Myriam Smith**

Represented by : **In Person**

Landlord : **Network Homes Limited**

Represented by : **Ms C William-Jones of
Devonshires, Solicitors**

Type of Application : **Section 13 and 14 Housing Act 1988**

Tribunal Members : **Mr A Harris LLM FRICS FCIArb
Mr A Ring**

Date and venue of Consideration : **20 June 2022 at 10 Alfred Place
London W1**

Date of Decision : **20 June 2022**

Covid-19 pandemic: description of hearing

This has been a face to face hearing followed by an inspection.

Decisions of the tribunal

- (1) The tribunal determines that the market rent is £360.00 (three hundred and sixty pounds) 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 of the Housing Act 1988 following the service of a notice of increase dated 11 February 2022 proposing a new rent of £133.62 per week in place of the existing rent of £128.36 per week to take effect on 4 April 2022. The tribunal issued directions on 5 April 2022 which were amended on 12 May 2022.
2. The tribunal was provided with a bundle of 162 pages including two condition survey reports. The papers for the tribunal indicated that there was ongoing litigation relating to the condition of the property and the allegation the tenant was refusing access for repair work to be carried out in breach of the terms of the tenancy. The tribunal was asked by the landlord to disregard any disrepair under section 14(2)(c) as it was prepared to carry out the necessary works.
3. The tribunal indicated at the start of the hearing that it was solely concerned with setting a market rent for the property in accordance with section 14 of the Housing Act 1988. It would not be making any decisions on issues of disrepair or other matters currently before the court. In order to possibly assist the parties, the tribunal indicated it would make a decision on the level of rent in the property in the condition in which the tribunal saw it on its inspection and also on the assumption that any items of disrepair had been remedied and that the kitchen and bathroom had been renewed.
4. At the conclusion of the hearing arrangements were discussed for an inspection of the property including attendance by the Respondent's representatives. On arriving at the property, the Applicant refused access to the Respondent's representatives. The Applicant remained outside the property and the tribunal inspected unaccompanied. Inspection was severely restricted by the volume of goods stored within the property.

The property

5. The subject property is a ground floor converted flat in a 3 storey building on a corner plot with accommodation consisting of 3 rooms kitchen and bathroom/WC. The flat has central heating. The property has a dated kitchen and bathroom.

The tenancy agreement

6. The property is let on a tenancy agreement commencing on 24 May 2004 for an initial term of one week continuing weekly thereafter. The rent may be increased by using the provisions of section 13 of the Housing Act 1988.
7. The landlord is responsible for repairing the structure and exterior but not for internal painting and decoration. The landlord is also responsible for keeping in good repair and working order installations for heating water heating and sanitation and for the supply of utilities.
8. The Landlord is responsible for external decorations. The landlord can also recharge the tenant for repairs caused through the fault of the tenant.
9. The Tenant is responsible for internal decorations and to keep the interior of the premises in good and clean condition and to decorate all internal parts as frequently as is necessary.

The Tenant's evidence

10. The Applicant's evidence consisted of a condition report prepared following an inspection on 21 December 2020 by an unnamed person on the instructions of Deighton Pierce Glynn solicitors. Condensation associated mould growth in the bathroom and some evidence of penetrating damp above the living room back door. There is also evidence of mouse activity in the bathroom, hallway in the kitchen and remedial treatment and proofing works will be required.
11. No rental evidence was submitted on behalf of the Applicant and she indicated she thought the rent should not increase.

The landlord's evidence

12. A condition survey report was submitted by the Landlord and prepared by Onour Impram following an inspection on 28 October 2020. The report identifies various minor items of disrepair and agrees that there is condensation damage in the bathroom and pest infestation. The report costs the various items recommended at a total of £1291.94.
13. Following a claim by the tenant, the Landlord made an offer to settle the claim, pay damages and undertake repair works. The respondent states that it has agreed to carry out works of repair including refitting the kitchen and bathroom but the tenant was refusing access to carry out the repairs as she did not like the bathroom design and wanted a range cooker which was not in the design.

14. An explanation was provided as to how the proposed rent is calculated in accordance with the Governments Rent Standard. The proposed rent increase is 4.1%.
15. The Respondent states that if the property was vacant at the present time a new target social rent would be calculated as set out in the guidelines which takes into account the area, average earnings in that area and size of the property. A bedroom waiting is also applied. Under these criteria the rent of the property is calculated to be £147.07 per week. The maximum the Respondent could charge for a similar two-bedroom property is the bed cap of £166.87.
16. In comparison, affordable rents are based on either 80% of market rents, or Local Housing Allowance rates, whichever is the lower. For a two-bedroom property in the same postcode 80% of the market rent is £332.80 (market rent being £416) and the LHA rate is £365.92. An affordable rent would therefore be £332.80 per week which is significantly higher than the current rent being charged to the applicant.

The Law

17. Section 14 the Housing Act 1988, allows a tenant who has received a notice of increase to apply to the tribunal for a determination of the rent which in the tribunal's opinion the rent at which the dwelling might reasonably be expected to be let in the open market by a willing landlord under an assured tenancy, which is a periodic tenancy having the same periods as the tenancy, beginning at the beginning of the notice period and on the same terms other than the amount of rent as are contained in the tenancy.
18. The assessment is required to disregard any effect on rent attributable to the granting of a tenancy to a sitting tenant, any increase in the value attributable to a any voluntary improvement carried out by a tenant and any reduction in the value of the dwellinghouse attributable to a failure by the tenant to comply with any terms of the tenancy.

Valuation

19. The tribunal has considered the evidence of the parties relating to the condition of the property and also the limited explanation of how the rent has been calculated. As no comparable rental evidence has been provided by the parties the tribunal also relies on its knowledge and experience.
20. The tribunal considers that the various items of disrepair identified by the survey reports are relatively minor in themselves. Additionally, the landlord has indicated it intends to renew the kitchen and bathroom

fittings once it gains access. The tribunal notes that the tenant is responsible for internal decoration.

21. The tribunal considers that this flat, repaired and modernised, let in the market on an AST on normal market terms, in the condition the market would expect including carpets, curtains and white goods would achieve a rent of £450 per week. The tribunal has deducted 10% to reflect their lack of carpets, curtains and white goods to reach a rent of £405 per week.
22. Starting from the same point but with the property in the condition seen at the tribunal's inspection and taking into account the tenants decorating liability, the tribunal considers that the deduction from the market rent of £450.00 per week would be 20% giving a rent of £360.00 per week and makes its determination accordingly.
23. No evidence of hardship has been provided so the date the increase takes effect is 4 April 2022.

Costs

24. At the hearing, the respondent made an application for costs under rule 13. The tribunal indicated it would receive written submissions on costs once the decision had been made. Written submissions are to be made in accordance with the attached directions.

Name: A Harris

Date: 20 June 2022

ANNEX - 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. Any appeal in respect of the Housing Act 1988 should be on a point of law.

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