



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

**Case Reference** : BIR/00CN/MNR/2022/0018

**Property** : Flat 2, 102 Sandford Road, Birmingham, B13 9BT

**Applicant** : Mr Liban Omar

**Respondent** : Midland Heart Limited

**Type of Application** : Appeal against a Notice proposing a new rent under an Assured Periodic Tenancy under section 13(4) of the Housing Act 1988

**Tribunal Members** : Mr I.D. Humphries B.Sc.(Est.Man.) FRICS  
Mr D. Douglas

**Date and Venue of Hearing** : N/A. Paper determination.

**Date of Decision** : 23<sup>rd</sup> May 2022

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**REASONS FOR DECISION**

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- 1 The rent is determined at £124.27 (One Hundred and Twenty Four Pounds Twenty Seven Pence) per week from 4<sup>th</sup> April 2022.

## REASONS

### Introduction

- 2 The tenant, Mr Omar, holds a monthly assured tenancy from the landlord, Midland Heart Limited, from 23<sup>rd</sup> April 2007.
- 3 On 8<sup>th</sup> March 2022 the landlord served notice of increase under section 13(2) of The Housing Act 1988 proposing a rent of £124.27 per week to take effect on 4<sup>th</sup> April 2022. The proposed rent included £21.80 per week for fixed service charges.
- 4 On 22<sup>nd</sup> March 2022 the tenant applied for the rent to be determined by the First-tier Tribunal Property Chamber.
- 5 On 23<sup>rd</sup> May 2022 the Tribunal determined the rent at £124.27 per week from 4<sup>th</sup> April 2022.
- 6 On 10<sup>th</sup> June 2022 the tenant requested reasons for the Tribunal's decision by email which are the subject of this document.

### The Law

- 7 Section 14 of The Housing Act 1988 states:

*'(1) Where, under subsection (4)(a) of section 13 above, 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;...'*

*'(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 the immediate landlord ...*

- 8 The jurisdiction of the Rent Assessment Committee was transferred to the First-tier Tribunal (Property Chamber) from 1<sup>st</sup> July 2013.

## **Facts Found**

- 9 The Tribunal issued Directions inviting the parties to make any submissions they wished to make regarding the rental value and condition of the property with a timetable for action. It proposed 23<sup>rd</sup> May 2022 as the date for a Tribunal inspection subject to completion of a Risk Assessment Checklist introduced as a result of covid restrictions. The tenant sent a letter expressing general dissatisfaction with the cost of the service charge element, detailed below, but did not return the Risk Assessment form or contact the Tribunal further and the Tribunal had no alternative but to proceed to make its determination based on the information before it without an inspection.
- 10 From the tenant's application form, the Tribunal was aware the property comprised a flat in a semi-detached house and from the Tribunal's general knowledge of the area it is located in a popular and well established residential area. The house comprised three flats, one per floor, with the subject flat comprising a lounge, two bedrooms, kitchen and bathroom.
- 11 Neither party had requested a Hearing.

## **Submissions**

- 12 The Applicant's Submission  
The Applicant considered the service charge to be excessive. Mr Omar said the management charges were too high, a new intercom had been fitted without consulting him, the gardening was never carried out, he had never seen a mobile caretaker and repairs were not being carried out.
- 13 The submission contained no comparable evidence of rents paid for any other flats.
- 14 The Respondent's Submission  
No submissions made.

## **Decision**

- 15 As neither party provided any evidence of rents paid for other flats in the area, the Tribunal reached its decision based on its own general knowledge of the locality.
- 16 The key point made by the Applicant was that he considered the service charge to be too high, but the items listed as part of the charge were no more than normally provided by commercial landlords in open market lettings. They included communal cleaning, electricity for communal areas, door entry systems, grounds maintenance, a mobile caretaker, tree maintenance, emergency lighting, a tv aerial, fire testing, a Ranger and a management charge. The total came to £21.80 per week. However, as a fixed charge it is part of the overall weekly rent and any comparison with market rents would assume these services were provided by other landlords without separate charge. In other words, the question for the Tribunal was to determine the weekly rent of the flat assuming these services were provided within the rent.
- 17 The Tribunal found that the open market rent of a similar flat in this area, with the same level of services, would rent for at least the asking rent proposed by the landlord of £124.27 per week and as no evidence had been provided to the contrary the Tribunal determined the rent at this level with effect from 4<sup>th</sup> April 2022.

I.D. Humphries B.Sc.(Est.Man.) FRICS  
Chairman

## **Appeal**

If either party is dissatisfied with this decision an application may be made to this Tribunal for permission to appeal to the Upper Tribunal, Property Chamber (Residential Property) on a point of law only. Any such application must be received within 28 days after the decision and accompanying reasons have been sent to the parties (Rule 52 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013).