



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

Case reference : **CAM/00KA/MNR/2022/0062**

Property : **59 Wadhurst Avenue Luton LU3 1UQ**

Applicant : **Mr Abdul Satar and Mrs Malali Satar**

Respondent : **Dr Mehmood Shah**

Application : **Application for permission to Appeal**

Tribunal members : **Mary Hardman FRICS IRRV(Hons)**

Date of Decision : **11 October 2022**

DECISION REFUSING PERMISSION TO APPEAL

Decision

1. The tribunal has considered the Respondent's request for permission to appeal dated 26 August 2022 and determined that:
 - a. it will not review its decision dated 16 August 2022: and
 - b. permission be refused.
2. In accordance with section 11 of the Tribunals, Courts and Enforcement Act 2007 and rule 21 of the Tribunal Procedure (Upper Tribunal) (Lands Chamber) Rules 2010, Dr Shah may make further application for permission to appeal to the Upper Tribunal (Lands Chamber). Such application must be made in writing and received by the Upper Tribunal (Lands Chamber) no later than 14 days after the date on which the First-tier Tribunal sent notice of this refusal to the party applying for permission to appeal.
3. Where possible, any further application for permission to appeal should be sent **by email** to Lands@justice.gov.uk, as this will enable the Upper Tribunal (Lands Chamber) to deal with it more efficiently. Alternatively, the Upper Tribunal (Lands Chamber) may be contacted at: 5th Floor, Rolls Building, 7 Rolls Buildings, Fetter Lane, London EC4A 1NL (tel: 020 7612 9710).

Original Application

4. The Original Application was made on 2 November 2021 by Mr and Mrs Satar, for the determination of a market rent under Section 14(1) of Housing Act 1988 following service of a notice in the prescribed form by the landlord on 18 September 2021.
5. The landlord's notice proposed a new rent of £1500 per calendar month to be effective from 3 November 2021. This was in lieu of the £1300 per month.
6. On 28 March 2022 the tribunal determined a rent of £1250 per month.
7. On 9 May 2022 the landlord, Dr Shah wrote to the tribunal to say that he had not received any communication in respect of the case. The correspondence had been sent to the agent who had acted in respect of the original tenancy agreement and had not been forwarded.
8. The tribunal considered that the most appropriate way of proceeding was to set aside the previous decision in accordance with Rule 51 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 (the Rules.) It then invited submissions from the landlord and gave the tenant the opportunity to respond.
9. Having reconsidered the original submissions together with new submissions from both the landlord and the tenant in response, the tribunal subsequently issued a new decision at £1300 per month with effect from 3 November 2021.

Reasons for the decision

10. The tribunal has decided not to review its Decision and refuses permission to appeal to the Upper Tribunal because it is of the opinion that there is no realistic prospect of a successful appeal in this case.
11. The tribunal did not wrongly interpret or wrongly apply the relevant law or take into account irrelevant considerations or fail to take account of relevant consideration or evidence.
12. For the benefit of the parties and of the Upper Tribunal (Lands Chamber) (should a further application for permission to appeal be made), the tribunal has set out its comments on the specific points raised in the requests for permission to appeal.

REFUSING PERMISSION TO APPEAL

13. For the benefit of the parties and of the Upper Tribunal (Lands Chamber), the tribunal records below its comments on the grounds of appeal, set out in the same order as in the Landlord letter seeking permission to appeal.

Ground 1: The review was done by the same officer who make the last decision, so the revised decision is unlikely to be objective

14. The tribunal considered both the evidence originally provided and that provided subsequently by the landlord and the tenant. The tribunal set the initial decision aside and re-made the decision (pursuant to rule 51) with an open mind, taking into account all the evidence

Ground 2: Evidence submitted was not considered

15. The tribunal did not disregard the two letting estimates (paragraph 37) provided by the landlord, which did not form part of the previous evidence. It made a modest deduction from the estimated market rent of £100 to reflect the '*fairly tatty state of the property, in particular the basic nature of the kitchen and bathrooms and the blown double-glazed units.*' Nothing that the landlord has stated in his appeal suggests to the tribunal that it was inaccurate in its observations during the inspection nor in consideration of the evidence in making this deduction.
16. The hyperlinks send with the landlord submission to the properties for rent on Right Move were unfortunately not provided to the tribunal by its case officer. However, the tribunal does not believe that it would have made a different decision had this been the case.

Ground 3 – The property is a furnished let and this was not taken into account

17. The landlord informed the tribunal that he provided the washing machine and the fridge freezer but that he had told the tenant that he would not be responsible for the maintenance of these. He also said he left a cooker which the tenant subsequently removed. It would not be unusual for white goods to be provided in modern lets. The only item of furniture provided was a double bed. This does not in the view of the tribunal constitute a furnished let. Furthermore, it is debatable as to whether a furnished property would let necessarily for more – many tenants preferring to provide their own furniture.

Ground 4 – Complaints of overcrowding by neighbours

18. The tribunal does not see the relevance of this to the determination of rental levels beyond any potential impacts of over occupation on the state of repair. The deduction from the open market rent was modest as referred to in paragraph 14 and related to matters which would not be impacted by any potential over occupation. The tenant refutes this claim, and the tribunal did not see any evidence of this during their inspection.

Ground 5 – Tenant did not copy the landlord into his response to the landlord’s original submission

19. The tribunal received Dr Shah’s submission of 16 June 2022 in which Dr Shah said that he had not received Mr Satar’s claim and response form. It responded by email on 20 June 2022 enclosing the application form and Mr Satar’s submission and gave Dr Shah until 27 June 2022 to provide any additional response.

Mary Hardman
Regional Surveyor
11 October 2022

ANNEX - RIGHTS OF APPEAL

As the application for permission to appeal the decision is refused, an application for permission to appeal against that refusal may be made to the Upper Tribunal under the Tribunals, Courts and Enforcement Act 2007, the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 and The Tribunal Procedure (Upper Tribunal) (Lands Chamber) Rules 2010. An application to the Upper Tribunal (Lands Chamber) for permission must be made within **14 days** of the date on which the First-tier Tribunal sent you the refusal of permission.