



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

**Case reference** : **CAM/00MF/MNR/2022/0068**

**HMCTS code** : **A:BTMMREMOTE**

**Property** : **64 Chilcombe Way, Lower Earley,  
Reading, RG6 3DB**

**Applicant (Tenant)** : **Ms Najada Shtamo**

**Respondent (Landlord)** : **Mr Alex Nezhuingal**

**Type of application** : **Determination of a Market Rent:  
Sections 13 and 14 Housing Act  
1988**

**Tribunal members** : **Mr P Roberts FRICS CEnv**

**Date of Determination** : **9 November 2022**

---

**DECISION**

---

This has been a remote determination on the papers which the parties are taken to have consented to, as explained below. The form of determination was a telephone hearing described above as **A:BTMMREMOTE**. The documents that the Tribunal was referred to are in bundles from the Applicant and the Respondent. The Tribunal has noted the contents and the decision is below.

## **Decision**

**The Tribunal determined a market rent of £1,650 per calendar month effective from 17 August 2022.**

## **Reasons**

### **Background**

1. On 17 June 2022 the Landlord served notice under section 13 (2) of the Housing Act 1988 to increase the passing rent from £1,050 per month to £1,750 with effect from 17 August 2022.
2. This rent is stated to be exclusive of Council Tax, Water Charges and fixed service charges.
3. The Tenant made an application to the Tribunal in reliance on section 13 (4) of the Housing Act 1988 on 15 July 2022.
4. The Tribunal issued directions on 15 August 2022, inviting the Parties to submit any further representations (including any photographs and details of rentals for similar properties) they wished the tribunal to consider.
5. The Landlord requested a telephone hearing.

### **The Property**

6. The Tribunal inspected the Property on 10 October 2022 and has relied upon the papers provided by the Parties together with Google Images and Rightmove historic sales particulars.
7. The Property comprises a modern semi-detached house originally comprising a porch, lounge and kitchen together with an integral garage on the ground floor and two bedrooms, box room and bathroom on the first floor.
8. The garage has been converted to form a downstairs bedroom together with an ensuite.
9. The Tribunal was informed that the Tenant does not use the downstairs bedroom and ensuite as this is excluded from the lease. In addition, the Tribunal understands that the furniture contained therein belongs to the Landlord.
10. There is a driveway suitable for car parking at the front of the Property and a garden to the rear.

11. The Property benefits from UPVC double glazing throughout and modern bathroom and kitchen units, albeit the Tenant has replaced the majority of the white goods as set out below.
12. The Tribunal notes that the EPC banding is C effective from 5 October 2022 and that the assumed floor area extends to 81 square metres.
13. The Tribunal also notes that the Property has been placed in Council Tax D.

### **The Tenancy**

14. The Tenant occupied the Property by virtue of an Assured Shorthold Tenancy that commenced on 17 August 2020 and expired on 18 August 2022.
15. The rent under the Tenancy was £1,050 per month.
16. The Property is defined at clause 3.1 of the lease as “...64 Chilcomebe (sic) Way, Reading RG6 3DB – 4 Bedroom Semi-Detached Property”. However, Section G of the lease sets out that “*The ground floor garage conversion room is excluded from the rental.*” There is therefore an apparent contradiction between clause 3.1 and Section G.
17. In the absence of a new Tenancy being entered into, an Assured Periodic Tenancy pursuant to Section 5 (2) of the Housing Act 1988 (the 1988 Act) has arisen such that Sections 13 and 14 of the Act now apply.

### **The Law**

18. Section 5 (3) of the 1988 Act provides that the periodic tenancy arising on expiry of the Assured Shorthold Tenancy is one:

*“(a) taking effect in possession immediately on the coming to an end of the fixed term tenancy;*

*(b) deemed to have been granted by the person who was the landlord under the fixed term tenancy immediately before it came to an end to the person who was then the tenant under that tenancy;*

*(c) under which the premises which are let are the same dwelling-house as was let under the fixed term tenancy;*

*(d) under which the periods of the tenancy are the same as those for which rent was last payable under the fixed term tenancy; and*

*(e) under which, subject to the following provisions of this Part of this Act, the other terms are the same as those of the fixed term tenancy immediately before it came to an end, except that any term which makes provision for determination by the landlord or the tenant shall not have effect while the tenancy remains an assured tenancy”*

19. It is therefore the case that the property assumed to be let under the Periodic Tenancy is the same as that let according to the terms of the immediately preceding tenancy.
20. In this scenario the Property let under the lease excluded the ground floor garage conversion. It is therefore the case that the same exclusion applies in respect of the Periodic Tenancy.
21. Section 14 of the 1988 Act provides that the Tribunal is required to determine the rent at which the Property might reasonably be expected to let in the open market by a willing landlord under an assured tenancy:
  - a. *“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 rent) are the same as those of the existing tenancy.”*
22. Section 14 (2) of the 1988 Act requires the Tribunal to disregard:
  - 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 (as defined by section 14 (3) of the Act) otherwise than as an obligation;*
  - 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.”*
23. Examples of a tenant’s failure to comply with the terms of the lease may include, for example, a lack of redecoration.
24. Section 11 of the Landlord and Tenant Act 1985 (the 1985 Act), provides that the Tribunal is to imply a covenant by the Landlord:
  - a. *“to keep in repair the structure and exterior of the dwelling-house (including drains, gutters and external pipes),*
  - b. *to keep in repair and proper working order the installations in the dwelling-house for the supply of water, gas and electricity and for sanitation (including basins, sinks, baths and sanitary conveniences, but not other fixtures, fittings and appliances for making use of the supply of water, gas or electricity), and*
  - c. *to keep in repair and proper working order the installations in the dwelling-house for space heating and heating water.”*

25. Section 14 (7) of the 1988 Act states:

*“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, with effect from such later date (not being later than the date the rent is determined) as the appropriate tribunal may direct.”*

### **Representations – The Tenant**

26. The Tenant did not specify any grounds of objection to the Landlord’s proposed terms other than that the rent being contended for by the Landlord is too high.
27. The Tenant advised that they had replaced the Landlord’s washing machine as it was broken.
28. The Tenant also replaced the gas hob and single oven and provided the fridge freezer.

### **Representations – The Landlord**

29. The Landlord provided a printout of properties as advertised on Rightmove which it considered support the rental value contended for.
30. In addition, the Landlord made the following points:
- 1) He explained that the ground floor bedroom and ensuite was excluded from the original lease such that the rent was reduced accordingly. However, he considered that the tenant had requested use of these facilities and had made use of them accordingly. It was explained that these rooms comprised the garage conversion referred to in the lease.
  - 2) The Tenant had requested and been granted permission to change some white goods and substitute their own units.
  - 3) The Tenant had been granted permission to decorate and change the carpets.
  - 4) In his opinion, asking rents for four bedroom properties are between £1,850 and £1,895 per month.
31. In summary, he considered that a rent of £1,750 per month was reasonable.

### **Determination**

32. In determining the market rent, the Tribunal has regard to prevailing levels of rent in the general locality and achieved rental values in respect of other properties of comparable accommodation and provision that would be likely to be considered by a prospective tenant. The current rent and the period that has passed since that rent was agreed or determined is not relevant.
33. The legislation requires the Tribunal to have regard to market demand assuming that the landlord is willing. The Tribunal is therefore unable to have regard to the personal circumstances or identities of the actual landlord and tenant in assessing the level of rent.
34. In addition, the Tribunal is unable to assume that the demise is different to that as defined within the expired lease. As such, whilst the Landlord contends that the Tenant should be assumed to have access to the garage conversion this is expressly excluded from the original lease and must therefore be disregarded.
35. In this regard, the Tribunal was not provided with any evidence that the Tenant and Landlord had since agreed that the garage conversion would now be included within the demise and the Tenant does not appear to have taken occupation thereof.
36. With regard to properties currently on the market the Tribunal notes the following:
  - a) Three-bedroom semi-detached property at Easby Way, Lower Earley – asking rent £1,600 pcm
  - b) Four-bedroom semi-detached property at The Delph, Reading – asking rent £1,700 pcm
  - c) Three-bedroom semi-detached property at Fordham Way, Lower Earley- asking rent £1,750 pcm.
  - d) Three-bedroom semi-detached property at Finstock Close, Lower Earley – asking rent £1,800 pcm.
  - e) Four-bedroom detached house at Easby Way, Lower Earley – asking rent £1,700 pcm.
37. All these properties differ in respect of their locality, age, configuration and fit out. However, they are of assistance in setting a general level of value.
38. The Tribunal therefore determines the market rental of the Property with effect from **17 August 2022 at £1,650 per calendar month.** The rent payable may not, therefore, exceed this figure. However, this does not prevent the Landlord from charging a lower figure.

**Name:** Peter Roberts FRICS CEnv

**Date:** 9 November 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).