



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

Case reference : **LON/00AT/MNR/2022/0140**

Property : **Room 4 , 3 Brook Road South ,
Brentford TW8 0NN**

Applicant : **Kyung-Min Chung**

Representative : **In Person**

Respondent : **Ru Wang-Grinnell / Invest Property
Solutions**

Representative : **In person**

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

**Tribunal
member(s)** : **Mr Richard Waterhouse MA LLM
FRICS**

**Date and venue of
hearing** : **21st November 2022 Remote hearing on
the papers**

Date of Decision : **21st November 2022**

DECISION

Decision of the tribunal

The tribunal determines the rent at £700 per month. The rent to have effect from the date in the landlords notice which is 14th September 2022.

Background

1. The tribunal received an application under section 13 of the Housing Act 1988 dated 13th September 2022. This included the landlord's notice proposing a new rent to commence on 14th September 2022.
2. Neither party requested an oral hearing and written representations were received from the applicant and respondent.
3. The property , from the application form at 3 "details of premises" , comprises a room within an HMO , 3.0m by 3.70m shared use of bathroom and kitchen with 11 other people illegal occupancy" , and that there is a "poorly kept patio and locked gate".

Applicant submissions.

4. The tenants application form dated 13th September 2022 notes;

At 3 (g) details of premises , "the landlord does not live at the property but lets herself in without notice respecting the quiet enjoyment of the property"

"The landlord has illegally let to 12 tenants an HMO licensed for 5 she recently illegally evicted all but me (Sec 21 void no deposit protection) and is now adding new tenants daily.

The tenancy started on the 14th November 2021 for 6 months.

Under 5 Services , "the contract says wifi is provided but the landlord cut it off as part of forced eviction, they also refused to pay fro [sic] a tv licence , which they include in the contract ,the utility bills are also included but with 12 tenants they had plenty of rent.

They have had rats , leaks on my bed, and downstairs and drainage issues , and washing machine nor working for many months, nor has it been replaced so I am now spending money on transport and lauderette.

The contract says it will provide furnishings but none were provided not even a bed , I am currently sleeping on a matteress I had to get myself.

Under 6 Furniture, The tenant notes, “ there is a small wardrobe in my room” , there are two garden chairs and a tiny glass table in the kitchen , all to be shared by 12 tenants,

Under 7, Improvements the tenant notes that they fitted new locks but under dispute with landlord the locks and keys have been handed over to the landlord.

Under 8 Repairs Landlord “We lived with rats and maggots , mould because of over occupancy , drains did not drain, ceilings leaked ruining my bed , Pillows duvets and bed linen. Leaks are still happening and not been repaired as part of their forced eviction activities.

The tenant does not have responsibility for repairs.

The Landlords Notice of Increase in Rent proposes £850 per month from 14th September 2022 in place of previous which was £600 per month . The notice is dated 14th August 2022. It includes guidance notes for tenants. The landlord on the Notice of Increase is noted as being Invest Property Solutions.

Also included is tenancy agreement from 14th November 2021 for 6 months.

The tenant has completed with Directions and noted in their reply form additionally that the radiator controls are broken. That a washing machine has recently been installed by another tenant.

The tenant has submitted additionally a detailed response , the contents is noted and requests the rent to be reduced to £500.00 per month.

Additionally, there is a separate 89-page bundle of evidence. This has been considered by the tribunal. It includes comparable evidence and photographs of the premises.

At page 5, by e mail 20th September 2022 to the tribunal, Ru Grinnell notes they are not the landlord.

At page 9, by e mail 25th October 2022 to the Tenant, Invest Property Solutions note they are no longer managing the property.

The bundles include copies of correspondence with landlords and or their managing agents. Several comparables to indicate rental level for spare room lettings. Photographs of leaking ceiling above bedroom from shower above.

The bundle contains extensive allegations of harassment.

Respondent's submission

There is no submission from any party claiming to be a landlord or their agent.

The Law

20. The tribunal first had to determine that the Tribunal had jurisdiction to hear the Application in order to determine a rent under S14 of the Housing Act 1988. In short the tribunal must determine that the Landlord's notice under Section 13(2) satisfied the requirements of that section and was validly served.

21. The Act provides in section 13 (2) as amended by the Regulatory Reform (Assured Periodic Tenancies) (Rent Increases) Order 2003 that the date in paragraph 4 of the Landlord's notice (the date the new rent becomes payable) must comply with three requirements.

22. The first requirement is that a minimum period of notice must be given before the proposed new rent can take effect.

23. The second requirement is that the starting date must not be less than 52 weeks after the date on which the rent was last increased using this procedure although there are exceptions to this.

24. The third requirement is that the proposed new rent must start at the beginning of a period of the tenancy.

25. In the present case, the tenancy started on 14th November 2021. The Notice of Increase proposed the new rent on the 14th September 2022.

26. Section 14 of the Housing Act 1988 requires the tribunal to determine the rent at which it considered the subject property might reasonably be expected to be let on the open market by a willing landlord under an assured tenancy.

27. Only if a landlord's notice complies with each of the requirements referred to above does a tribunal have jurisdiction to determine a rent under section 14 of the Act.

28. The Landlord stated in the tenancy agreement dated 14th November 2021 is Invest Property Solution . The Landlord in the Notice of Increase dated 14th August 2022 is Invest Property Solutions.

The landlord at date of application was Invest Property Solutions.

Invest Property Solutions by email dated 25th October 2022 state they are no longer the landlord but offer no alternative landlord.

The Decision

28. The tribunal determined that these three requirements were met.

29. In coming to its determination under section 14, the tribunal relied on its own general knowledge of rental levels in the area and evidence supplied by the appellant.

30. Notwithstanding the lack of clarity over who status of the building's ownership. The Application is valid and the tribunal has jurisdiction in determining the rent.

30. Given the size and nature of the accommodation, the lack of evidence countering the applicants evidence, the tribunal determines the rent at £500.00 per month effective from the date of Notice of Increase.

Name: Tribunal Chair Waterhouse **Date:** 21st 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).

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—]

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(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.

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(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 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.