



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

Case Reference : **JM/LON/00AY/MNR/2022/0146**

Property : **Unit 1 2B Mountbatten Close Gipsy Hill
London SE19 1AP**

Applicant : **Mr Paul Richard Grant**

Respondent : **Maurice Laurent Limited**

Representative : **Mr Michael Eastman**

Date of Application : **17 September 2022**

Type of Application : **Determination of the market rent under
Section 14 Housing Act 1988**

Tribunal : **Mrs E Flint FRICS
Mr J Francis QPM**

**Date and venue of
Determination** : **22 November 2022
10 Alfred Place London WC1R 4NL.**

DECISION

The market rent as at 16 October 2022 is £800 per month.

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Background

1. On 17 September 2022 the tenant of the above flat referred to the Tribunal a notice of increase of rent served by the landlord under section 13 of the Housing Act 1988.
2. The landlord's notice, which proposed a rent of £1146.86 with effect from 16 October 2022, is dated 12 September 2022.
3. The tenancy is a periodic tenancy which commenced on 16 September 2019.

The Hearing

4. Mr Grant appeared in person. The landlord was represented by Mr Michael Eastman of LPC Law who called Mr C Jones a director of the landlord company to give evidence. Prior to the hearing both parties had made written submissions which were referred to at the hearing.
5. Mr Grant said that the landlord wanted to increase the rent from £800 per month to £1146.66 per month. He considered that the increase was excessive. It was the third time that the landlord had sought to increase the rent to the same figure. In his opinion the market had not increased by 43% in the last year.
6. He stated that he obtained the tenancy agreement under a scheme to assist those in danger of becoming homeless and that initially the rent was based on the Local Housing Allowance however after 12 months the tenancy was a normal tenancy with the rent being based on the market rent.
7. The landlord had made a number of errors in his description of the property. Unit 1 is a studio flat with a kitchen area and use of a shared kitchen which housed a cooker, fridge freezer and coin operated washer/dryer. The unit was unfurnished, other than a wardrobe. The landlord had offered a portable two ring cooker which he had declined as it would have taken up most of the worktop in the kitchen area of the studio. The windows were single glazed, heating was provided by an electric wall heater. The laminate flooring and fridge were supplied by the landlord. The staircase, hall and kitchen floor were cleaned monthly.
8. Mr Grant confirmed that he knew what rents were being paid for other rooms in the house. However, he said the rents were not market rents but were based on the Local Housing Allowance for one bedroom properties and were higher than the market rents of one bedroom flats with their own kitchens. The units were let on the basis that the tenants were in danger of becoming homeless and the rent was fixed at the Local Housing Allowance.
9. He had provided a number of comparables: all one bedroom flats with asking rents of between £700 and £900 per month which he considered supported the passing rent.

10. Mr Grant said that if the rent was increased and backdated he would face hardship because he was on benefits and backdating was difficult. He asked the Tribunal to exercise its discretion to limit the effective date of any increase to the date of the hearing.
11. On behalf of the landlord Mr Eastman said that the proposed rent was based on the Local Housing Allowance for a one bedroom flat in Inner South East London which is set by the Valuation Office Agency. In support of the proposed rent Mr Eastman said that of the 24 units within 2 and 4 Mountbatten Close twelve were let at the Local Housing allowance rate of £1146.86 because they were let under the scheme operated by the local authority for those in danger of becoming homeless. The remaining units were let at rents ranging from £938 to £970 per month.
12. Mr Eastman referred to information on the Home.co.uk website which gave a median rent for one bedroom flats within SW19 as £1413 per month. He noted this was significantly above the proposed rent for the subject premises.
13. Cleaning of the common parts is carried out on a monthly basis. He suggested the cost of the cleaning should be added to the rent together with the cost of repairs.
14. Mr Jones said that the cleaning cost £100 per month. He had a number of properties; the same company cleaned the common parts and charged a flat fee of £100 per building regardless of the extent of the common parts.
15. Mr Eastman referred to the definition of a bedroom in relation to a taxation case and said a living room with a bed was also a bedroom.

The Inspection

16. The building is an imposing four storey semi-detached house built in 1863 on the corner of Mountbatten Close, overlooking Gypsy Hill station. Externally the decorations were poor. The front/side garden was laid mainly to lawn, there was a very dilapidated building within the garden.
17. There were 14 steps up to the front door and further stairs off the entrance hall to the subject accommodation. Unit1 comprised one room with shower room/wc off. The floor area of the room indicated that it was spacious however due to its shape the space was less useful than a regular shaped room: the area in front of the kitchenette was effectively a corridor as it provided access to the shower room and the entrance door; it was too narrow to provide a seating area. There was a total of five single glazed sash windows providing excellent natural light but poor heat insulation. The kitchen area comprised a sink unit with limited work surface, there was no drainer. The landlord had provided an under the counter fridge and the tenant a second fridge. Heating was via a wall mounted electric panel heater under the bay window.

18. The shared kitchen housed a cooker and hob, fridge/freezer and coin operated washer/dryer. There were three base units and a double wall cupboard. The worktop area was limited.

The law

19. In accordance with the terms of section 14 Housing Act 1988 the Tribunal proceeded to determine the rent at which it considered that the subject property might reasonably be expected to be let on the open market by a willing landlord under an assured tenancy.
20. In so doing the Tribunal, as required by section 14(1), ignored the effect on the rental value of the property of any relevant tenant's improvements as defined in section 14(2) of that Act.

Valuation

21. The landlord's reply form stated that the property had a balcony, was double glazed, centrally heated with carpets, curtains and white goods supplied by the landlord and that there was off street parking and communal gardens. The inspection revealed that this information was clearly incorrect.
22. In coming to its decision, the Tribunal had regard to the comparable evidence supplied by the parties. The Tribunal does not find the landlord's comparables helpful in determining the open market rent because there has been no testing of the market, the rent was simply the amount of the Local Housing Allowance for a one bedroom flat or the amount available under the benefit rules where the initial tenancy for 12 months had expired. The actual flat is however, not one bedroomed but an awkwardly shaped studio with a kitchenette area and a shared kitchen. The flat is within close proximity of all local facilities and transport.
23. In determining the rental value of the subject property, the Tribunal has taken into account all the factors in respect of lack of proper kitchen facilities within the flat itself, the single glazed windows, lack of central heating and the layout of the studio.
24. The Tribunal has not made additions for cleaning of the common parts as this would be reflected in the market rent comparables and also the Local Housing Allowance. Moreover, the landlord's repairing liability is covered by the rent.

The decision

25. The Tribunal concluded that the rent at which the property might reasonably be expected to be let on the open market is £800 per month. The rent will take effect from 16 October 2022 in accordance with the effective date in the landlord's notice. The Tribunal determines that backdating of the new rent will not cause hardship because it is the same as the rent previously determined.

Chairman: Evelyn Flint

Dated: 4 January 2023

ANNEX - RIGHTS OF APPEAL

- i. 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.
- ii. 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.
- iii. 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.
- iv. 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.

Appendix Housing Act 1988

14 Determination of rent by rent assessment committee.

(1) Where, under subsection (4) (a) of section 13, 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; 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 to 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.

(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 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....