



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

**Case Reference** : **MAN/00BN/MNR/2022/0006**

**Property** : **10 Nasmyth Street, Cheetham Hill  
Manchester M8 ORG**

**Tenant** : **Ms. Hazel Haughie-Thompson**

**Landlord** : **Mr. Mohammad Afzal**

**Type of Application** : **s13 Housing Act 1988**

**Tribunal Members** : **Judge J White  
Valuer S Wanderer**

**Date of Decision** : **15 August 2022**

**Date of Reasons** : **28 October 2022**

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**DECISION**

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## **The Decision**

The Tribunal determined, in accordance with section 14 of the Housing Act 1988, that the open market rent for the Property is £181.25 per month, effective from 15 August 2022.

## **The Background**

1. The Tenant entered into the Assured Shorthold Tenancy of 10 Nasmyth Street Cheetham Hill Manchester M8 ORG (the Property) on 30 January 2012. By a notice dated 30 November 2021, (“the Notice”), the Landlord proposed a new rent of £181.25 per week to take effect from 24 January 2022. The previous rent being £162.50 per week. No additional services are provided. The Landlord's agents are Judge Properties LTD.
2. By an application dated 3 January 2022, the Tenant referred the Notice to the Tribunal.
3. Following notification to the parties, the Tribunal inspected the Property on 19 July 2022. On the 15 August 2022 there was an oral hearing attended by the Landlord’s agents Judge Properties. Izaz Hussain, a director, and Shuaib Hussain, the letting manager made submissions as set out below. The Tenant did not attend the hearing.

## **The Property and Inspection**

4. The Property is a three-bedroom mid terrace circa 1900. On the ground floor is 1 living room, dining room, and kitchen. On the first floor there are two bedrooms and a bathroom. There is a third bedroom on the second floor.
5. From its inspection, the Tribunal noted that the property is not in the best condition overall, with poor finishes and evidence of old damp patches, that had not been made good. There was evidence of a continued leak into the dining room from above the window. The kitchen and bathroom were dated.
6. The location of the Property is off a main road. It is on a short row of houses in a cul de sac with a high railway arch at the end. There is a small back yard that opens onto a communal space. The front opens out onto the street.
7. The Property was originally part furnished and carpeted. Some of which have been replaced by the tenant.

## **The Law**

8. The Tribunal must first determine that the Landlord’s notice under section. 13(2) of the Housing Act 1988 (the 1988 Act) satisfied the requirements of that section and was validly served.
9. Section 14 requires the Tribunal 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.
10. In so doing the Tribunal is required by section 14(1), to ignore the effect on the rental value of the property of any relevant tenant's improvements as defined in section 14(2) of that Act.
11. Section 14(4) provides that for the purposes of section 14 “rent” includes

amongst other things any sums payable to the landlord by the tenant in respect of council tax.

12. Section 14(4) provides that for the purposes of section 14 “rent” does not include a “service charge” within the meaning of section 18 Landlord and Tenant Act 1985 (i.e. where in accordance with the terms of the tenancy or other agreement a service charge payable by the tenant is variable from time to time according to changes in the relevant costs). However, it does include a “fixed” service charge.
13. Section 14 (6) provides that “...*unless the landlord and the tenant otherwise agree, the rent determined by the appropriate tribunal ....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.*”

### **Tribunals Deliberations**

14. The Tribunal determined the Notice to be valid and the validity was not in dispute.
15. The Tribunal had to assess the rent in accordance with Section 14 of the 1988 Act, being the Rent at which the Tribunal considered that the subject property might reasonably be let on the open market by a willing landlord under an assured tenancy. In doing so it must comply with section 14 (1) of the 1988 Act as referred to above.
16. The Tenant had provided a number of undated photographs of parts of the property together with written submissions that generally accorded with our inspection. At the hearing, the Landlord's agents submitted that the tenant had not reported the disrepair. If they had they would have undertaken repairs. They confirmed that they had inspected on the 19 July 2022, though had not taken a full list of the defects nor carried out further repairs. They were not disputing the defects found, though described it as being in reasonable condition.
17. The Landlord’s agents had provided a number of comparators of properties to rent on the market. This included;
  - a. A search on Zoopla for 2–3-bedroom properties in or near to M8 ranging from £185 to £531 per week. We do not know the other parameters of this search. None appeared similar, either in location or type. Some were quite a distance from the Property. They all appeared to be modernised, mostly detached and with large gardens. The Property on at £185 was in the Moston area and a 2-bedroom terrace.
  - b. An earlier comparator on Zoopla again showed properties of a different type.
  - c. A search on Rightmove of 2-3 bedroom dwellings 0 miles from M8 ranged from £161.53 to £392 per week. They included modernised apartments to substantial semi-detached houses. They did not include

any terraced houses.

- d. A tenancy agreement of a dwelling let on 18 July 2022 in M9 8JH, with a rent of £230.78 per week. In oral evidence, they said this was a smaller 1920's, 3-bedroomed semidetached house with a garden, small driveway, and new carpets.
18. The Tribunal considered that the Landlord's evidence of an estimated rental range was of limited value, as they were not direct comparators. They did provide a general overview of part of the market in the area, though not 3-bedroom terraced houses. Their oral evidence made clear that they mistakenly believed the market value was the Property when it had been modernised and not in its current condition (excluding any tenant neglect or improvement). The tenants' submissions relating to the current condition are reflected above and largely in accordance with our inspection and not disputed by the Landlords' agents.
19. We also note, that both the landlord's agent and the Tenant provided submissions relating to disputes between the parties that were not relevant to the market value.
20. Using our own knowledge and experience of market rent levels in the relevant area we determined that the market rent for a similar dwelling in a similar locality could be rented for £201.92 per week. This is of the lower end of the comparators, though above the comparator of the Moston 2-bed terrace provided by the Landlord. Terraced dwellings in the immediate area are not likely to be modernised. We have deducted £20.67 for neglect as set out above. The Property is relatively large for its type, being over 3 floors, though it is located under a railway arch. The open market rent is then £181.25 per week. This accords with the Landlords original proposed rent increase. We do not consider that, in today's market, an open market rent would be less than that, taking account of the nature of the surrounding area, the condition of the Property, size and type.
21. This rent of £181.25 per week will take effect from 15 August 2022, as the Tenant has provided evidence of undue hardship in her written submissions, due to her financial position coupled with her health conditions and that of one of her sons.

**Judge White**

**28 October 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).