



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

Case reference : **JM/LON/OOBG/MNR/2022/0198**

Property : **31 Arrow Road, London, E3 3HE**

Applicant : **Anish Chowdhury & Rehana Akhter**

Representative : **In Person**

Respondent : **Shaminur Rahman**

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** : **1st February 2023 Paper hearing**

Date of Decision : **1st February 2023**

DECISION

Decision of the tribunal

The tribunal determines the rent at £2000.00 per month. The rent to have effect from the date in the landlords notice of 31st October 2022.

Background

1. The tribunal received an application under section 13 of the Housing Act 1988 dated 21st November 2022. This included the landlord's notice dated 31st October 2022 proposing a new rent of £2000.00 per month to commence on 1st December 2022.
2. An oral hearing was not requested nor an inspection was requested nor one considered proportionate.
3. The property comprises a terraced house, with two living rooms, one kitchen, two bedrooms and a bathroom and WC. Outside there is a small patio area. The tenancy commenced on the 1st November 2014 and rent is payable on the 1st of the month.

Applicant submissions.

4. The tenants submissions comprised; the application form dated 21st November 2022, the tenancy agreement showing commencement date of 1st November 2014, Notice of Increase of Rent, and a completed reply form undated.

5. The application form notes;

The house was let with “cooker, washing machine, fridge, freezer, 3 seated sofa, 2 single armchairs, 2 seated round able, 1 king sized bed, 1 single bed and 3 wardrobes with chest of drawers.”

Improvements were noted in that the tenant asked the landlord to replace a broken single bed, this the application notes was not done and the tenant purchased two single beds. Additionally, the 2 seated table was not large enough for the family needs and was replaced also.

Repairs the application notes are the responsibility of the landlord for exterior and interior.

The tenant notes they have replaced some furniture due to general wear and tear.

The application form also notes;

The landlord repaired damp issues inside the property in August 2021. He also painted inside and outside of the property. The landlord repaired a button from the washing machine and also replaced the electrical plug sockets. Back in August 2021 he has done the Gas Safety Check but now he is still overdue to arrange a gas safety check and provide us with a new gas safety certificate. The landlord is responsible to do the repairs inside the house. The tap is been leaking for the past couple of months but he hasn't fixed it at all. The Thames Water has been sending out letters to us regarding this issue but my landlord is refusing to fix it. The washing machine should be repaired properly as every time I change the program the electric fuse box keeps tripping. There are few broken tiles to be repaired and replace but he hasn't dealt with the issue even after we have told him numerous time that this is a dangerous hazard as my children run around the kitchen. Every door handles are broken but yet again he wont fix it. We had a lot of issues with the landlord about repairing around the house and even after him acknowledging the issues still wouldn't repair it so last case scenario we got Environmental health involved and they were on a case with him to repair everything that was mentioned at the home visit."

6. The Notice of Increase of Rent states the rent is to rise from £1400 per month to £2000 per month effective from 1st December 2022. The tenants reply form undated noted ;

Respondent's submission

The Landlords Reply form noted;

The property comprises; a living room, with sash windows radiator, a second living room sash windows and radiator, kitchen, fitted, boiler, tiled floor, bedroom 1, sash window, radiator bed and furniture, bedroom 2 sash window radiator and furniture, bathroom, bath and wc, and outside small patio garden.

The property is centrally heated but does not have double glazing. There are carpets, blinds and white goods supplied by the landlord.

Under improvements the landlord notes;

2012 November, entire property refurbished just before my current tenants moved in, including new boiler fitted. 2014 changed all the door handles, cooker, oven hood, fridge washing machine 2018/19 pointed the house at touch up / cleaned patio rubbish. 9th July to 5th October 2021- total overhaul of the property inside and out, new electric fuse box, wiring, portable appliances tests, electric installation, condition EPC carried out, all Gas appliances checked boiler, cooker oven so on (another due) awaiting tenants convenience.

Fixed and checked all electrical sockets and switches new extractor fan system with humidistat in the bathroom. Fixed all sources of dampness ceiling and

wall plaster, fire detection system, fire blankets replaced all cracked and damaged glazing to windows, over hauled all the door thresholds front and back carried out all other necessary repairs works required in the property (Inspected by Tower Hamlets) Toilet seat replaced painted whole house inside and out (every inch) All the works were carried out by Trade Professionals, gas engineer, electrician glazier and roofer.

The landlord notes he has been recently notified of disrepairs as described in tenants' submission, The landlord notes this is the first time he has been informed of these. Landlord concerned tenant was hoarding rubbish, that accessing the property has been challenging. The landlord requested environmental Health Officer visit.

Finally, the landlord notes there has been no increase in rent for 8 to 9 years.

Additionally, a copy of letter from LL to tenants dated 31st October 2022, it states ‘

“I would like to take a minute to let you know exactly how much I value you as a tenant, It can be hard to find such model tenants”

The letter notes the cost of mortgage on the property and the preconception that the property is around 40 to 50% undervalued in terms of rent requested.

The Hearing

The hearing was decided on papers.

The Law

Validity

7. 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.

8. 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.

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

10. 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.

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

12. In the present case, the covering letter accompanying the Notice of Increase stated 1st September 2022 as the commencement date of the rent, and the Notice of Increase stated 27th June 2022.

Valuation

13. 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.

14. 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.

The Decision

15. The tribunal determined that these three requirements for validity were met.

16. 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.

17. No comparable evidence was supplied by either party. Given the size and nature of the accommodation, given the evidence of the repairs historic and outstanding the tribunal determines the rent at £2000 per month effective from the date of Notice of Increase.

Name: Chairman Waterhouse

Date: 1st February 2023

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—]

[

(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 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]⁹ 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.