



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

Case reference	:	LON/00AQ/MNR/2022/0095
Property	:	14, Cumberland Court, Princes Drive, Harrow, Middlesex. HA1 4UD
Applicant	:	Mr. Jeffery Jenkins
Respondent	:	J S Estates
Type of application	:	Sections 13 and 14, Housing Act 1988
Tribunal members	:	(1) Tribunal Judge S.J. Walker (2) Tribunal Member Mr. S. Johnson MRICS
Date and Venue of hearing	:	Decided on the Papers
Date of Decision	:	8 December 2022
Date of Reasons	:	24 January 2023

REASONS

Background

1. On 7 June 2022 the tenant of the above property referred to the Tribunal a notice of increase of rent served by the landlord under section 13 of the Housing Act 1988 (“the Act”).
2. The landlord’s notice, which proposed a rent of £250 per week is dated 6 May 2022. The notice proposed a starting date for the new rent of 13

June 2022. The rent passing was stated as being £210 per week. No services are charged for under the tenancy.

3. The tenancy situation is as follows. The tenant's father was a tenant of the property since at least 1947. His mother succeeded to a statutory tenancy on the death of her husband in 1990. On the death of his mother in 2001 the tenant succeeded to an assured periodic tenancy by virtue of section 2 and paragraph 6(1) of Schedule 1 of the Rent Act 1977. This was accepted by the landlord in a letter dated 23 May 2002. No tenancy agreement was available to the Tribunal.
4. Directions were issued on 1 July 2022. These made it clear that the Tribunal would decide the application on the basis of written submissions unless either party requested a hearing. The directions also invited the parties to indicate whether or not they wished an inspection to take place. The landlord replied stating that neither a hearing nor an inspection were required. However, the tenant replied stating that whilst a hearing was not required, he did want an inspection to take place. The Tribunal therefore decided that it was appropriate for the rent to be determined on the basis of the written submissions alone and an inspection was carried out on 8 December 2022.
5. On 8 December 2022 the Tribunal determined that the market rent pursuant to the section 13 notice should be £215 per week with effect from 8 December 2022 and notice of that decision was issued. The landlord requested reasons in writing on 29 December 2022.

The Landlord's Case

6. In their reply form the landlord described the property as a two-bedroom flat on the second floor with a living room, kitchen and bathroom. They stated that central heating, double glazing, carpets and curtains and white goods were all supplied by the landlord and also stated that there was a communal garden. They stated that in August 2021 the electrical installations were upgraded with the installation of a new fuse board, replacement of electric sockets and the installation of new bathroom lighting.
7. The reply stated that the property had good transport links, being close to Harrow and Wealdstone railway station. Reliance was placed on comparable rents received for flats 7, 8 and 15 in the same block, which ranged from £288.46 per week to £294.23 per week.
8. The landlord stated that they were not aware of any disrepair.

The Tenant's Case

9. In his application the tenant agreed with the description of the property as a 2-bedroom flat but stated that he did not have the use of a garden. He accepted that the landlord had responsibility for all repairs other than the general decoration of the property.

10. In his reply form the tenant stated that there was no central heating, that there was double glazing which had been provided by the landlord a long time ago, and that in fact he provided the carpets, curtains and white goods. With regard to heating, he stated that the only heating was a gas fire in the lounge and that otherwise he relied on electric radiators. He stated that the communal garden referred to by the landlord belonged to the buildings opposite.
11. In his reply the tenant stated that large areas throughout the property suffered from damp and/or mould and that the property is very cold in the winter months. He accepted that the shops and train station were a short walk away.
12. The tenant dealt with specific rooms as follows. He stated that the gas fire in the living room was purchased and fitted by him, and that there was a carbon monoxide alarm provided by the landlord. He complained of damp areas in the corners of the ceilings and on the external walls and cracks above the windows and in the ceiling.
13. The tenant's submissions were that the kitchen was very dated with original tiling from the 1930s cracked and discoloured and original cupboards. He said that there was a small sink drainer with a cupboard below, which is not in good condition, and that next to the sink was a hot water boiler. He said there was no plumbing facility for a washing machine and that there was only one double electric socket for the whole kitchen. He also complained that there was no work surface and stated that the kitchen was only 10 ft. by 7 ft. The tenant provided the dimensions of the two bedrooms (bedroom 1 15ft x 9ft, bedroom 2 10ft x 6ft) and stated that there were damp problems in these rooms too.
14. The tenant stated that the bathroom was dated and that the original tiling was cracked and chipped. He stated that the lighting had been replaced by the landlord in this room as the previous fitting breached regulations.
15. The tenant also drew attention to disrepair to the exterior of the building.
16. In further written submissions the tenant commented on the comparables put forward by the landlord. He stated that there was no information about the condition of the other flats in the block relied on and suggested that flat 15 may be a 3-bedroom property. He also stated that some of the flats in the block had been refurbished, and that flat 13 had been completely modernised with central heating, a fitted kitchen and new fitted bathroom. This had previously been relied on as a comparable by the landlord with a rent of £285 per week in 2018. He stated that in a previous application to the Tribunal – when the rent was fixed at £210 per week – the Tribunal had determined the market rent as £285 and deducted £75 per week for lack of carpets, curtains, white goods and central heating and for a dated kitchen and bathroom.

17. The tenant also provided evidence of comparables in Warwick Court – a block of flats opposite Cumberland Court - (£1,150 per month) and a 2-bedroom flat in Princes Drive (£1,125 per month) but argued that, whilst of a similar size, these were modernised properties with central heating and were in much better condition.
18. In his written submissions the tenant also stated that he is 73 years old living off an occupational pension and the state pension. He stated that he lived in a meagre way in order to be able to afford to pay the rent and that he received no benefits. He stated that he was concerned that he would not be able to afford the rent in future and that this was causing him worry, anxiety and distress.

The Inspection

19. The Tribunal inspected the property on 8 December 2022 in the presence of the tenant alone.
20. The property comprises a two-bedroom self-contained flat on the second floor of a purpose built block constructed in the 1930s. There are commercial premises on the ground floor. It is of brick construction. The windows are all double-glazed. The block is located at a busy junction with Headstone Drive, where there is a roundabout, and is a short walk from Harrow and Wealdstone station.
21. The exterior of the building is in poor decorative condition and has little street appeal. The Tribunal also noted areas of spalled brickwork at the rear of the property – accessible from a fire escape – where it also noted an unlagged external water pipe running from the kitchen of the property to the bathroom.
22. Internal examination corroborated all of the tenant’s submissions as to the nature and condition of the property. In particular, the only heating is a gas fire in the living room and portable radiators. The Tribunal was surprised by the fact that in their reply form the landlord had asserted that the property benefited from central heating, whereas it clearly did not. This obvious inaccuracy reduced the weight attached to the landlord’s reliance on comparables in the same building, as it suggested that those other flats may well have central heating. This inaccuracy also led the Tribunal to prefer the tenant’s account in his own reply that curtains, carpets and white goods, such as they are, were provided by the tenant and not the landlord, as claimed in the landlord’s reply.
23. The Tribunal also noted areas of damp, that the kitchen and bathroom are very dated, that the kitchen and bedrooms in particular are on the small side, and that there were inadequate numbers of electric sockets.
24. At the rear of the property is a fire-escape which leads down to an area where refuse bins are stored and an area which appears to have once been used for clothes drying and airing. This area is poorly maintained and has no visual appeal. This is the only area which could possibly be

regarded as the communal garden referred to in the landlord's reply, and is of very little if any amenity value.

The Law

25. The law which sets out the Tribunal's approach is given at section 14 of the Act which insofar as relevant is as follows:

- (1) Where, under subsection (4)(a) of section 13 above, a tenant refers to a [Tribunal] a notice under subsection (2) of that section, the [Tribunal] shall determine the rent at which, subject to subsections (2) and (4) below, the [Tribunal] 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;
- [...].

Valuation

26. The Tribunal considered the comparables provided by the parties. It bore in mind that it had no information about the condition and amenities of the other properties in the block relied on by the landlord.
27. The Tribunal considered the two properties of similar size referred to by the tenant, including one flat in Warwick Court, directly opposite the property, were a useful starting point. The Warwick Court flat was rented at £1,150 per month, or £265 per week. In its expert view this was a realistic rental for a property of the size, type and location of the property under consideration.
28. In addition to the factors already identified, the Tribunal also noted that the exterior of Warwick Court was of a much higher standard than that of the tenant's flat.
29. Taking a weekly rent of £265 as a starting point the Tribunal made a deduction of £50 per week to take account of the lack of central heating, the damp, the outdated kitchen and bathroom, the poor external condition and the other factors set out above.
30. On this basis the Tribunal decided that an appropriate adjusted rent to take account of the condition of the property was £215 per week.
31. The Tribunal also took account of the personal circumstances of the tenant as set out in paragraph 18 above and concluded that increasing the rent from the date specified by the landlord in their notice of increase would cause undue hardship to the tenant. It therefore decided, as permitted by section 14(7) of the Housing Act 1988, that the

increase should be effective from the date of the Tribunal's decision, namely 8 December 2022.

Name: Tribunal Judge S.J.
Walker

Date: 24 January 2023

ANNEX - RIGHTS OF APPEAL

- The Tribunal is required to set out rights of appeal against its decisions by virtue of the rule 36 (2)(c) of the Tribunal Procedure (First-tier Tribunal)(Property Chamber) Rules 2013 and these are set out below.
- If a party wishes to appeal against 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.