



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

Case reference : **LON/OOAP/MNR/2022/0092**

Property : **Room 8, 34 Queens Avenue London N10
3NR**

Applicant/Tenant : **Mr J Simister**

Representative : **In person (written representations)**

**Respondents/
Landlords** : **Magic Homes Limited**

Representative : **Racha Bottiaux**

Type of application : **Sections 13 and 14, Housing Act 1988**

Tribunal members : **Mr Charles Norman FRICS
Valuer Chairman
Mr O N Miller**

Date of Decision : **28 October 2022**

Date of Reasons : **28 December 2022**

REASONS

Background

1. On 20 May 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 £259.61 per week is dated 25 March 2022. This included respectively per week £16.71 and £11.68 for council tax and water charges. The notice proposed a starting date for the new rent of 25 May 2022. The rent passing was stated as being £169.15 per week.
3. The tenancy is an assured periodic tenancy. From the information provided, the assured tenancy commenced in 1991.
4. Directions were issued on 5 July 2022 setting the matter down for a paper determination unless either party requested a hearing. Neither party requested a hearing, but the tenant requested an inspection. The directions invited the parties to make written representations, which both did.
5. The Tribunal inspected the property in the presence of the tenant only on 28 October 2022 and made its determination on the same day. Subsequently, the tenant identified a typographical error on the Notice of Decision (see below) and also requested reasons.

The Landlord’s Case

6. The landlord’s case may be summarised as follows. The property comprises a studio room of 20.9 sq. m with a separate bathroom adjoining but accessed via the common parts. The bathroom is for the sole use of the tenant. The property was refurbished in 2008 by the landlord. The property has central heating and white goods provided by the landlord. There is a balcony and communal gardens. All bills are included: council tax, gas, electricity, water, Wi-Fi. The property is a 15 minute walk from East Finchley (Northern Line) and Alexandra Palace stations. Three studios in the area were advertised for around £1120 per month and in all cases, this excluded council tax. In one case all bills were excluded. These studios all have integral bathrooms, but this difference would not justify the current rent of £735 for room 8. The bathroom next to room 8 lacks an external lock because the tenant refused to have one fitted. Although access to the communal gardens required a key this had been given to the tenant previously, and this could be replaced at a nominal charge. The landlord rejected the tenant’s comparables as they were in wholly different locations in London. The landlord stated that the tenant had denied it access to the property.

The Tenant's Case

7. The tenant's case may be summarised as follows. The property was unfurnished but had a fitted purpose built kitchenette. The [sash] windows were seized shut save for one which is now permanently partially open. This followed redecoration in 2018/9 and had not been reported to the landlord. Previous rent increases had been referred to the Tribunal and extracts of a Decision dated 5 June 2015 were cited. There was no direct access to a balcony.
8. The tenant referred to some comparables "within 8 miles of N10". These included a property in Shepherd's Bush, (£650 per month), in Marble Arch (£160 per week), and Finsbury Park, (£170 per week).
9. Owing to the applicants difficult employment circumstances, he applied for the starting date of the new rent to be deferred to the date of the Tribunal's decision.

Inspection

10. The property comprises a large double room with fitted kitchenette which incorporates integral appliances, including dishwasher, washing machine, fridge, 2 ring hob and storage. There is a central heating radiator. The property has three sliding sash timber windows facing Queens Avenue. The floor is laminate. The bathroom comprises a modern, fully tiled, good quality facility with WC, shower cubicle and wash hand basin. The building dates from approximately 1900 and incorporated timber balconies. Queens Avenue is a very wide and impressive tree lined road in Muswell Hill. The Tribunal found that room 8, the bathroom and common parts were in very good condition.

The Tenancy

11. The tenancy is said to date from 1991 and there is no tenancy agreement.

The Law

12. The law as to 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; [...].

(4) In this section "rent" does not include any service charge ... but includes any sums payable by the tenant to the landlord ... in respect of council tax ...

(5) Where any rates in respect of the dwelling house concerned are borne by the landlord ... the [Tribunal] shall make their determination under this section as if the rates were not so borne.

Findings

13. The Tribunal preferred the comparable evidence of the landlord. The lowest asking rent was £1040 per month. It finds the tenants comparable evidence to be unhelpful as it relates to properties in substantially different locations. The property is in a desirable building in a very good road in Muswell Hill. The Tribunal finds that the balcony is not directly accessible from room 8. It also finds that the communal gardens would be accessible if the tenant availed himself a key from the landlords.
14. Having regard to the evidence, the Tribunal finds that had the tenant borne the rates and water charges and if the bathroom had been directly incorporated the market rent would have been £950 per month. However, the Tribunal made an adjustment of £50 per month to reflect the actual location of the bathroom. This leaves an adjusted market value of £900 per month or £207.71 per week. It is then necessary for the Tribunal to add the rates liability and water charges of £28.39 per week. This gives a weekly rent of £236.10, which the Tribunal rounds down to £236 per week.
15. The Tribunal accepted the tenant's evidence that his financial circumstances would cause undue financial hardship as a result of the determination and therefore directed that the new rent should commence on 28 October 2022, being the date of the Tribunal's determination.
16. The Tribunal accepts the Tenant's submission that the Notice of Decision contains a typographical error and directs that this be corrected under rule 50 of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 to state that the rent of £236 per week is inclusive of water rates and council tax.

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.