



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

**Case reference** : **LON/00AZ/MNR/2023/0004**

**Property** : **176a Evelyn St, London SE8 5DB**

**Applicant/Tenant** : **Ms Jozefina Anna Kimbar**

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

**Respondent/  
Landlord** : **Ms Sonia Mardner**

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

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

**Tribunal member** : **Mr Charles Norman FRICS  
Valuer Chairman**

**Date of  
Inspection** : **20 April 2023**

**Date of Decision** : **23 April 2023**

**Date of Reasons** : **23 April 2023**

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**REASONS**

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## **Background**

1. On 27 July 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 £1,450 per month is dated 28 June 2022. The notice proposed a starting date for the new rent of 1 August 2022. The rent passing was £1,195 per month.
3. The tenancy is an assured periodic tenancy. From the tenancy agreement supplied by the tenant, the tenancy commenced on 1 August 2021 and fixed term expired 31 July 2022. This agreement does not impose any redecoration obligations on the tenant. The property was let with a sofa, coffee table, single bed and chest of drawers.
4. The Tribunal issued directions on 13 January 2022, setting the matter down for a paper determination unless either party requested a hearing which neither did. The directions required each party to complete and return a pro forma Reply Form together with any comparables and/or other documents upon which the parties wished to rely. Both parties provided extensive written submissions.
5. The tenant requested an inspection, and this took place on 20 April 2023 in the presence of the tenant. The tenant’s daughter Ms Oliwia Kimbar acted as a translator via the telephone. The landlord did not attend and was not represented, as the tenant had stated that the landlord would be refused entry. In those circumstances the Tribunal would not been able to carry out an inspection unless the landlord agreed for the inspection to proceed in her absence, which she helpfully did. Ms Annie Hastings, an adviser to the tenant, was also present. Ms Nadine Sandford, a Legal Officer in the Tribunal, also attended as an observer.
6. Unfortunately, there has been a history of disputes between the parties including applications in the County Court for a possession order. The jurisdiction of the Tribunal is limited to determining the market rent under the Housing act 1988 and it confines itself to that matter.
7. Regrettably, the application in the Tribunal was not progressed correctly owing to an administrative error and there has therefore been a significant delay between the reference of the section 13 notice and directions being issued in January 2023.

## **Inspection**

8. From its inspection, the Tribunal finds as follows. The property is a converted flat on the ground and lower ground floors of a mid-

Victorian end of terrace house of four storeys which fronts Evelyn Street, the A200. This is a busy main road. The building is of brick construction under pitched tiled roofs. The flat is accessed at lower ground level from the street via five steps. The lower ground floor comprises a fair size living room with modern UVPC windows and radiator and laminated floor, an L-shaped hallway with two storage cupboards and bathroom/WC. There is a hall radiator. The bathroom is fully tiled, but the Tribunal noticed some deterioration in condition to the built in shower over the bath and some minor cracked tiling. The bathroom includes a wash hand basin and radiator. The bathroom window is a single glazed sliding timber casement in poor condition. Externally there are security bars.

9. A staircase leads up at the back of the lower ground floor to the ground floor. This comprises a hallway with back door leading to a downward flight of steps and a large garden at the rear. It also leads to a large kitchen which is fitted and modern. The kitchen includes a Worcester boiler which is approximately 15 years old. The kitchen window is in very poor condition and wedged open. This was a single glazed timber sliding sash. The bedroom is double sized contains radiator and contains sliding sash single glazed timber casement wedged up. The windows in poor condition. The floors are generally laminated, and the kitchen has a new floor which appears to be linoleum. The stairs are carpeted. The property is spacious for a one-bedroom flat.
10. The tenant pointed out some small areas of limited damp to the walls on lower ground floor, but the Tribunal was not persuaded that these were active. The tenant pointed out that the cooker hood was not working, and that the large freestanding fridge was noisy.
11. The property is situated near to local shopping amenities and is on bus routes and is relatively close to underground, TLR and mainline stations.

### **The Landlord's Case**

12. The landlord's case may be summarised as follows. The initial rent was below market value when it should have been £1,300 as advised by Hawkes Property Group, Stoke Newington. Market conditions are now very different. The proposed rental of £1,450 is still competitive being just below market value. The flat is 710 sq. ft. It is in zone 2 with very good transport links. It was fully furnished, with newly installed fully fitted kitchen appliances, was newly painted with new stair carpets at the start of the tenancy. The landlord issued further section 13 notices in October 2022 and on 17 December 2022, each for £1,500. The landlord accepts that these cannot be pursued as reference of the first notice to the Tribunal was made on 27 July 2022. The landlord referred to a number of one bed flat comparables at Inwen Court, Vida House and Armoury Road with a rental range (asking prices) between £1,425 and £1,625 per month.

13. The landlord accepted that the single glazed windows are in poor condition. They are the responsibility of London Borough of Lewisham who are due to replace them. The tenant had obstructed this process. The tenant has not allowed the landlord to inspect the property.

### **The Tenant's Case**

14. The tenant's case may be summarised as follows. The single glazed windows are in poor condition and some either need to be wedged open or cannot be shut. There is poor thermal insulation. The flat is in a noisy location. The toilet gets blocked regularly. There is damp at lower ground level. There have been numerous disrepair issues since the tenancy commenced. Ms Kimbar also referred to rental comparables by way of asking prices. Prices for one bed flats ranged from £1,400-£1,500 per month. The properties are located at Deptford High Street, Trundleys Road, Deptford Broadway and Armoury Road. These were cited to indicate value had the property been in a good condition. However, in view of the current condition of the subject property, the tenant asserted that the passing rent of £1,195 per month was still correct. The tenant suffers from ill health which affects her ability to provide access.

### **The Law**

15. 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;*

*[...].*

### **Findings**

16. The Tribunal finds that the subject property is a large one-bedroom flat with a large garden in a good but noisy location. There is full gas central heating. The property overall is in good condition with the exception of the single glazed windows which are in very poor condition. In

addition, there is some limited wear and tear in the bathroom particularly around the shower. The Tribunal was not persuaded that there was any significant damp in the lower ground floor at the time of inspection. There is some evidence of previous damp, but the Tribunal considers this to be minor and does not consider that it would adversely affect rental value.

17. In terms of the kitchen, the Tribunal disregards comments made in relation to the cooker hood and refrigerator because they were not included in written submissions, but in any event does not consider that these matters would affect rental value. In terms of thermal insulation, the Tribunal notes that the property has an energy performance certificate (EPC) rating of D, which is the most common rating in the UK. It does not therefore consider that this would adversely affect rental value. Nor does it consider that the repair history would affect rental value.
18. In terms of comparables, the Tribunal notes that many of the comparables relate to modern purpose-built blocks which are significantly different from the subject property. The Tribunal finds that the most relevant comparable is a converted Victorian house in Trundleys Road where the asking rent was £1,500 per calendar month. Having regard to that and the general tone of rental values from the comparables, the Tribunal finds that had the property been in very good condition the rent would have been £1,450 per calendar month.
19. However, the Tribunal must reflect the condition of the single glazed windows and wear and tear in the bathroom as observed during its inspection. It finds that the condition of the windows would require an adjustment of 12.5% and the wear and tear in the bathroom 2.5% giving a total adjustment of 15% for condition. This equates to an adjustment of £217.50 per calendar month leaving a market rent of £1,232.50 which the Tribunal rounds to £1,233 per calendar month. To this the Tribunal allows £20 per month in respect of the furniture. Therefore, the Tribunal finds that the rent pursuant to the section 13 notice is £1,253 per month. This rent takes effect from 1 August 2022 being the date specified in the section 13 notice.

Mr Charles Norman FRICS  
Valuer Chairman

23 April 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.