



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

Case reference : **Lon/00AE/MNR/2022/0181**

Property : **Flat 2, 1076a Harrow Road, London
NW10 5NL**

Applicant : **Mr Iman Aleem**

Representative : **None**

Respondent : **Mr A. G. Oراها**

Representative : **None**

Type of application : **Section 13(4) Housing Act 1988**

Tribunal members : **Mr D Jagger MRICS
Mr J Francis**

Venue : **10 Alfred Place, London WC1 7LR**

Date of reasons : **28th June 2023**

DECISION

Decision of the tribunal

- (1) Having heard evidence and submissions from the parties and considered all the documentation provided The Tribunal determines that the rent that the property in its current condition as at 9th May 2023 might reasonably be expected to achieve under an assured tenancy is **£925 per month**

Background

1. The tenant has lived in the property as assured periodic tenant since the 5th May 2012.
2. The accommodation extends to approximately 24m² and is located on the first floor and comprises a small, converted studio flat with one room, shower room and kitchen area.
3. On 15th September 2022 the landlord served a notice pursuant to section 13(2) of the Housing Act 1988 seeking to increase the rent from £693 to £1170 per month effective from 5th November 2022, this being an increase of £477. The rent includes payment of electricity and heating.
4. By an application dated 4th November 2022, the tenant referred that notice to the tribunal for a determination of the market rent. The Tribunal issued Directions for the conduct of the matter on 20th December 2022.

The Evidence

5. The parties prepared evidence which includes a background to the case, the application, the tenancy agreement, a comparable for flat 5 in the same building and completed Reply Form.
6. Based on the evidence before the Tribunal it is evident that the parties have had a turbulent history and it could be said that communications have broken down.

The Inspection

7. The Tribunal inspected the property on the morning of the 9th May 2023 in the presence of Mr Allem the tenant. He asked if the inspection could be recorded, and this request was denied by the Tribunal. Mr Oraha, the landlord, also attended the property in order to

carry out a joint inspection. Mr Allem, however denied access and the Tribunal inspected alone with Mr Allem

8. The property is a Victorian terrace building with commercial premises on the ground floor and seven flats situated on the upper floors. The subject flat is self-contained and located on the first floor approached via a communal hallway accessed via Harrow Road with stairs to the upper floors. This is in a poor decorative order. Internally, general refurbishment is required. The kitchen and sanitary fittings are dated. There is gas central heating and windows are double glazed.

The Hearing

9. The hearing took place at 10 Alfred Place prior to the inspection at 10am. The landlord and tenant took part. At the hearing each party was provided with the opportunity to outline their respective cases.

The Tenants case

10. The tenant stated that over the years the subject property has suffered neglect and requires significant refurbishment which must be reflected in the rental figure. In addition the services provided to the flat were on a communal basis and there are possible safety issues. When asked what rent he would be willing to pay, the tenant did not confirm a figure.

The Landlords case

11. Mr Oraha stated that he has not increased the rent since the tenancy commenced which was approximately 11 years, therefore the tenant has been living at the property at a subsidized rent. Due to the significant increase in interest rates, he has had no option, but to increase the rent. The landlord relied on two comparables, being Flats 1 and 5 in the same building. A copy of the tenancy agreements show they have been let at £1127 pcm and £1050 per month (excluding services) on the 24th December 2015 and the 11th December 2021 respectively. Rents have increased since this letting and the figure of £1170 pcm is reasonable.

The Law

12. The rules governing a determination are set out in section 14 of the Housing Act 1988. In particular, the Tribunal is to determine the rent at which the property might reasonably be expected to be let in the open market by a willing landlord under an assured tenancy, subject to disregards in relation to the nature of the tenancy (i.e. it being granted to a "sitting tenant") and any increase or reduction in the value due to

the tenant's improvements or failure to comply with the terms of the tenancy. In the absence of any evidence to the contrary, the Tribunal has proceeded on the basis that the landlord is responsible for repairs to the structure, partial exterior and any installations pursuant to section 11 of the Landlord and Tenant Act 1985 and the tenant for interior decoration and rainwater fittings.

The valuation

13. The first step is to calculate the rental figure without the inflation-based rent review clause (clause 9). Having carefully considered all the evidence, and using its knowledge and experience the Tribunal considers that the rent that would be achieved in good condition with refurbished kitchen and bathroom fittings, internal renovation, modern services, an carpets, curtains, functioning white goods supplied by the landlord would be **£1050** per month. The photographs of Flat 5 1076A Harrow Road, confirm this flat is larger and has a far superior internal specification. Therefore, this certainly confirms the Tribunal's opinion of open market rental value.
14. That however is the rent that would be achieved if the property was let in good condition with all modern amenities. The Tribunal must disregard any increase in rental value attributable to any tenant's improvements, unless they are carried out under an obligation to the landlord. The Tribunal has been provided with a copy of the tenancy agreement, which incorporates the usual repair obligations.
15. Based upon the evidence provided to the Tribunal we consider that that the rent should be reduced by £125 to reflect the need for internal refurbishment and upgrade of services. Our deduction reduces the rent to a figure of **£925** per month.
16. The Tribunal received no evidence of hardship and, therefore, the rent determined by the tribunal is to take effect from **5th November 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).