



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

**Case reference** : **CAM/22UJ/MNR/2023/0015**

**HMCTS code** : **P:PAPERREMOTE**

**Property** : **90 Kingsland, Harlow, CM18 6XN**

**Applicant (Tenant)** : **Marie Christine Biggs**

**Respondent (Landlord)** : **Natalie Brown**

**Type of application** : **Determination of a Market Rent:  
Sections 13 and 14 Housing Act  
1988**

**Tribunal members** : **Mr P Roberts FRICS CEnv**

**Date of Determination** : **27 April 2023**

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**DECISION**

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This has been a remote determination on the papers which the parties are taken to have consented to, as explained below. The form of determination was a paper hearing described above as **P:PAPERREMOTE**. The documents that the Tribunal was referred to are in bundles from the Applicant and the Respondent. The Tribunal has noted the contents and the decision is below.

## **Decision**

**The Tribunal determined a market rent of £930 per calendar month effective from 16 February 2023.**

## **Reasons**

### **Background**

1. On 13 January 2023 the Landlord served notice under section 13 (2) of the Housing Act 1988 to increase the passing rent from £850 per calendar month (pcm) to £950 pcm with effect from 16 February 2023.
2. This rent is stated to be exclusive of Council Tax, Water Charges and fixed service charges.
3. The Tenant made an application dated 12 January 2023 to the Tribunal in reliance on section 13 (4) of the Housing Act 1988. This was acknowledged by the Tribunal on 1 February 2023.
4. The Tribunal issued directions on 31 January 2023, inviting the Parties to submit any further representations (including any photographs and details of rentals for similar properties) they wished the Tribunal to consider.
5. The Landlord submitted a Reply Form on 14 February 2023.
6. The Tenant submitted a Reply Form dated 3 February 2023 but this was received by the Tribunal on 3 March 2023.
7. Neither Party requested a hearing, and the matter has been determined on the papers.

### **The Property**

8. The Tribunal inspected the Property on 3 April 2023 accompanied by the Tenant. Whilst Mr Wood attended on behalf of the Landlord, he was denied access by the Tenant, but it was agreed by the Parties that the Tribunal's inspection should proceed.
9. The Property comprises a first floor flat within a purpose-built former council owned apartment block constructed in the 1960/70s.
10. The accommodation comprises a living room, kitchen, bathroom and two bedrooms. There is off-street car parking.
11. There is central heating and UPVC double glazing.
12. The Tribunal notes that the EPC banding is D and that the stated assumed floor area is 60 sqm.

13. The Council Tax Band is B.

### **The Tenancy**

14. The Tenant occupied the Property by virtue of an Assured Shorthold Tenancy dated 13 June 2017 for a period of 6 months commencing on 16 June 2017.
15. The rent under this Tenancy was £850 pcm.
16. The Property is defined as “90 Kingsland Harlow Essex CM18 6XN” and the contents are defined as “*The fixtures and fittings at the Property together with any furniture, carpets and other effects listed in the Inventory.*” The Tribunal has not been provided with an Inventory.
17. The Tenant’s repair obligations are set out at clause 3 of the lease whilst the Landlord is required to comply with section 11 of the Landlord and Tenant Act 1985 as further set out below.
18. In the absence of a new Tenancy being entered into, an Assured Periodic Tenancy pursuant to Section 5 (2) of the Housing Act 1988 (the 1988 Act) has arisen such that Sections 13 and 14 of the Act now apply.

### **The Law**

19. Section 5 (3) of the Act provides that the periodic tenancy arising on expiry of the Assured Shorthold Tenancy is one:
  - “(a) *taking effect in possession immediately on the coming to an end of the fixed term tenancy;*
  - (b) deemed to have been granted by the person who was the landlord under the fixed term tenancy immediately before it came to an end to the person who was then the tenant under that tenancy;*
  - (c) under which the premises which are let are the same dwelling-house as was let under the fixed term tenancy;*
  - (d) under which the periods of the tenancy are the same as those for which rent was last payable under the fixed term tenancy; and*
  - (e) under which, subject to the following provisions of this Part of this Act, the other terms are the same as those of the fixed term tenancy immediately before it came to an end, except that any term which makes provision for determination by the landlord or the tenant shall not have effect while the tenancy remains an assured tenancy”*
20. Section 14 of the 1988 Act provides that the Tribunal is required to determine the rent at which the Property might reasonably be expected

to let in the open market by a willing landlord under an assured tenancy:

- a. *“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 rent) are the same as those of the existing tenancy.”*

21. Section 14 (2) of the 1988 Act requires the Tribunal to disregard:

- 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 (as defined by section 14 (3) of the Act) otherwise than as an obligation;*
- 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.”*

22. Examples of a tenant’s failure to comply with the terms of the lease may include, for example, a lack of redecoration.

23. Section 11 of the Landlord and Tenant Act 1985 (the 1985 Act), provides that the Tribunal is to imply a covenant by the Landlord:

- a. *“to keep in repair the structure and exterior of the dwelling-house (including drains, gutters and external pipes),*
- b. *to keep in repair and proper working order the installations in the dwelling-house for the supply of water, gas and electricity and for sanitation (including basins, sinks, baths and sanitary conveniences, but not other fixtures, fittings and appliances for making use of the supply of water, gas or electricity), and*
- c. *to keep in repair and proper working order the installations in the dwelling-house for space heating and heating water.”*

24. Section 14 (7) of the 1988 Act states:

*“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, with effect from such later date (not being later than the date the rent is determined) as the appropriate tribunal may direct.”*

### **Representations – The Tenant**

25. The Tenant attached detailed representations to the Reply dated 3 February 2023. The Tribunal has summarised the main points in respect of issues with the Property below.
  - a. Ongoing issues with mould since 2017
  - b. No extractor fans in the property apart from the monoxide fan in the lounge
  - c. Broken front door
  - d. Lack of external storage space
  - e. Broken plug in the kitchen
  - f. Damaged bath
  - g. Damaged heater
  - h. Broken fridge
  - i. The existence of damp
  - j. Leaking windows
  - k. Water leak in kitchen
26. The Tenant also provided a list of improvements made to the Property and set out comments distinguishing the condition of the Property relative to other properties available for letting.

### **Representations – The Landlord**

27. Mr Wood provided details of comparable properties upon which the proposed rent was based.
28. He also set out a number of additional points in respect of the history of discussions between the Landlord and Tenant.

### **Determination**

29. In determining the market rent, the Tribunal has regard to prevailing levels of rent in the general locality and achieved rental values in respect of other properties of comparable accommodation and provision that would be likely to be considered by a prospective tenant. The current rent and the period that has passed since that rent was agreed or determined is not relevant.

30. The legislation requires the Tribunal to have regard to market demand assuming that the landlord is willing. The Tribunal is therefore unable to have any regard to the personal circumstances or identities of the actual landlord and tenant in assessing the level of rent.
31. Having reviewed the comparable particulars provided by Mr Wood it is apparent that they have been fitted out to a modern standard and are in a superior condition relative to the Property. As such, whilst these comparables are helpful in assessing the market rent of the Property in the event that it has been refurbished, an adjustment is required to account for the relative lack of modernisation.
32. In this regard, the Property has been occupied by the current tenant since 2017 and it is apparent from the inspection that it would benefit from refurbishment and modernisation in order to bring it back up to market standards.
33. There would be particular benefit in fitting effective mechanical ventilation to the bathroom and kitchen areas to extract warm damp air thereby assisting with the control of condensation and mould.
34. It is notable that the rents referred to by Mr Wood range from £995 per month to £1,150 per month but the Landlord has quoted £950 per month. It is therefore apparent that, notwithstanding the apparent differences in opinion as to the historic work undertaken at the Property, the Landlord recognises that the Property as it currently exists would not achieve a rent directly comparable to other properties in the market.
35. On balance, the Tribunal is of the opinion that, on the assumption that the Tenant had fully complied with their lease obligations in respect of the maintenance of the Property, sufficient disrepair and obsolescence would remain such that a discount from the rents being quoted in the market is warranted.
36. It is therefore the Tribunal's opinion that the current market rental value of the Property as it actually exists and on the assumption that the Tenant had complied with their covenants would be **£930 per month**.
37. The Tribunal directs that the revised rent is to be effective from **16 February 2023**.

**Name:** Peter Roberts FRICS CEnv

**Date:** 27 April 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).

## Notice of the Tribunal Decision and Register of Rents under Assured Periodic Tenancies (Section 14 Determination)

Housing Act 1988 Section 14

Address of Premises

90 Kingsland, Harlow, CM18 6XN

The Tribunal members were

Mr P Roberts FRICS CEnv

Landlord

Natalie Brown

Address

C/O Clarknewman Ltd and Centurion Letting Ltd  
Equity House  
4-6 Market Street  
Old Harlow  
CM17 0AH

Tenant

Marie Christine Biggs

1. The rent is: £ 930 Per month (excluding water rates and council tax but including any amounts in paras 3)

2. The date the decision takes effect is:

16 February 2023

3. The amount included for services is

not applicable

Per

4. Date assured tenancy commenced

16 June 2017

5. Length of the term or rental period

6 months

6. Allocation of liability for repairs

Tenant liable for internal repairs

8. Furniture provided by landlord or superior landlord

This has been disregarded

9. Description of premises

The Property comprises a first floor flat within a purpose-built former council owned apartment block constructed in the 1960/70s. The accommodation comprises a living room, kitchen, bathroom and two bedrooms.

Chairman

P Roberts

Date of Decision

27 April 2023