



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

**Case reference** : **JM/LON/OOAY/MNR/2023/0216**

**Property** : **Flat 61, 7A Exchange Gardens SW8 1GF**

**Applicant** : **Francis Juriac**

**Representative** : **In Person**

**Respondent** : **SJW Property Management**

**Representative** : **In Person**

**Type of application** : **Market Rent under s13 & 14 of the  
Housing Act 1988**

**Tribunal  
member(s)** : **Mr Richard Waterhouse MA LLM  
FRICS**

**Date and venue of  
hearing** : **17<sup>th</sup> August 2023 in Person**

**Date of Decision** : **17<sup>th</sup> August 2023**

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**DECISION**

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## **Decision of the tribunal**

The tribunal determines the rent at £2300.00 per month. The rent to have effect from the date in the landlords notice of 21<sup>st</sup> March 2023, that is an effective date of 1<sup>st</sup> May 2023.

## **Background**

1. The tribunal received an application under section 13 of the Housing Act 1988 dated 27<sup>th</sup> April 2023. This included the landlord's notice dated 21<sup>st</sup> March 2023 proposing a new rent to commence on 1<sup>st</sup> May 2023. The previous rent being £1750.00 per month and the proposed £2300.00 per month from 1<sup>st</sup> May 2023.
2. Neither party requested an inspection, but a hearing was requested.
3. The property is a flat on the 9<sup>th</sup> floor, comprising one living room with kitchen, one bedroom, and a bathroom.
4. The tenancy commenced on the 1<sup>st</sup> June 2021 for 12 months the last contractual day being 31<sup>st</sup> May 2022. The statutory periodic tenancy then commenced on the 1<sup>st</sup> June 2022.

## **Applicant submissions.**

5. By application form the tenant noted, that in addition to the accommodation, the landlord provided; sofa, bed, two tables, one night stand, four chairs and a TV stand.

6. The submissions included a copy of the tenancy agreement, dated 27<sup>th</sup> May 2021 and the Notice of Increase for the rent, dated 21<sup>st</sup> March 2023.

7. Additionally, the tenant has completed a Reply Form, noting a request for hearing, the form details the accommodation and the contents, and noting the accommodation has central heating, double glazing, carpets & curtains and white goods. Further there is a balcony.

8. It was further noted that “ when we moved in – we have tried reaching out to our agent regarding a crack in the balcony doors that let the wind in because they were not closing properly. After reaching to our agent a couple of times and being ignored- we have decided to solve the matter with the building repair team. It has been resolved.

We also had to fix ourselves the transparent light cover in the kitchen, the agent was notified but no action was taken.

1 month ago, one of the doors inside the apartment (bedroom) stopped working but after fixing it poorly it is again deficient.”

9. Additional disrepairs and defects noted. Additionally comment regarding proximity to railway station and subsequent noise, also there was an incident of knife crime reported in the building.

There is an additional document undated which cites rents in similar properties being, £ 1900, £1950 and £2050 per month in the block.

### **Respondents Submission**

10. The respondents in their note undated, comment that the property was under warranty and the defects as mentioned by the tenants, were forwarded to the after care team who had responsibility for addressing them. In regard to rental levels, the agents SJW Property Management have five properties in the block under management. Noting the average rent achieved is £2175.00 per month, with the latest being advertised at £2500.00 per month.

11. Issues regarding case JM/LON/OOAY/MNR/2022/0172 should not have a bearing. Affordability should not be an issue and the landlord also is experiencing increased interest rates. The starting date for the tribunals determined rent should be that of the landlord's notice.

### **The Hearing**

#### **The Tenants submissions**

12. The tenant submitted that they were aware of a number of rents passing in the building of similar properties, which indicated a figure lower than the amount requested by the landlord. Additionally, the tenant noted that the average rent for properties managed by the landlord's agent in the block was £2175.00 per month.

13. Following the issue of the notice, there had been correspondence between the landlord's agent and the tenant. The landlord's agent had offered a reduced rent of £2075.00 per month. The tenant had counter offered £2000.00 per month. Negotiations broke down, with the Notice remaining in force.

14. The Tenant also submitted that any rent increase determined by the Tribunal should come into effect from the date of the hearing rather than the date of the Notice of Increase of Rent. The basis of the request was that the rent increase if back dated would cause financial hardship and would prevent the tenant from saving money to move to another property.

## **The Landlords submissions**

15. The landlord's agent provided evidence of a spectrum of evidence for the building of properties that they were responsible for letting. The range was £2200.00 to £2800.00. The date of the lettings spans from around the date of the Notice of Rent before the date of the hearing

16. The Landlords agent on commenting on the request for a delayed increase through hardship, pointed out that the landlord had to bear costs of an increase in mortgage payments and in service charges and so they objected to the delay.

## **Valuation**

17. Section 14 of the Housing Act 1988 requires the tribunal to determine the rent at which it considered the subject property might reasonably be expected to be let on the open market by a willing landlord under an assured tenancy.

## **The Decision**

18. In coming to its determination under section 14, the tribunal relied on its own general knowledge of rental levels in the area and evidence supplied by the parties.

19. Rents have increased sharply over the past few months. As such an average of rents passing in the building would lag the market. Additionally, rents being settled now whilst not being evidence of actual amounts are evidence of a trend. The tenant's information relating to the rents passing for other tenants in the building whilst of significance, must be treated with caution as the background to the rents are not known, whereas those supplied by the landlord's agent are all known to be market rents.

21. In terms of the request for forward dating the increase on basis of hardship. The need to save money to exit the property does not in itself constitute "hardship". The considerations of the landlord are not items that can be considered, the relevant provision in the Act only provides for the tenant's hardship to be considered.

22. Given the size and nature of the accommodation, given the evidence of similar rental properties supplied by the tenant and the landlord, using its own knowledge of the area, the tribunal determines the rent at £2300.00 per month effective from the date of Notice of Increase that is the 1<sup>st</sup> May 2023.

**Name:** Chairman Waterhouse

**Date:** 17<sup>th</sup> August 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).

## THE LEGISLATION

### Housing Act 1988

#### **s.13.— Increases of rent under assured periodic tenancies.**

(1) This section applies to—

(a) a statutory periodic tenancy other than one which, by virtue of paragraph 11 or paragraph 12 in Part I of Schedule 1 to this Act, cannot for the time being be an assured tenancy; and

(b) any other periodic tenancy which is an assured tenancy, other than one in relation to which there is a provision, for the time being binding on the tenant, under which the rent for a particular period of the tenancy will or may be greater than the rent for an earlier period.

(2) For the purpose of securing an increase in the rent under a tenancy to which this section applies, the landlord may serve on the tenant a notice in the prescribed form proposing a new rent to take effect at the beginning of a new period of the tenancy specified in the notice, being a period beginning not earlier than—

(a) the minimum period after the date of the service of the notice; and

(b) except in the case of a statutory periodic [tenancy—]

[

(i) in the case of an assured agricultural occupancy, the first anniversary of the date on which the first period of the tenancy began;

(ii) in any other case, on the date that falls 52 weeks after the date on which the first period of the tenancy began; and

]

(c) if the rent under the tenancy has previously been increased by virtue of a notice under this subsection or a determination under section 14 [below—]

[

(i) in the case of an assured agricultural occupancy, the first anniversary of the date on which the increased rent took effect;

(ii) in any other case, the appropriate date.

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(3) The minimum period referred to in subsection (2) above is—

(a) in the case of a yearly tenancy, six months;

(b) in the case of a tenancy where the period is less than a month, one month; and

(c) in any other case, a period equal to the period of the tenancy.

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(3A) The appropriate date referred to in subsection (2)(c)(ii) above is—

(a) in a case to which subsection (3B) below applies, the date that falls 53 weeks after the date on which the increased rent took effect;

(b) in any other case, the date that falls 52 weeks after the date on which the increased rent took effect.

(3B) This subsection applies where—

(a) the rent under the tenancy has been increased by virtue of a notice under this section or a determination under section 14 below on at least one occasion after the coming into force of the Regulatory Reform (Assured Periodic Tenancies) (Rent Increases) Order 2003; and

(b) the fifty-third week after the date on which the last such increase took effect begins more than six days before the anniversary of the date on which the first such increase took effect.

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(4) Where a notice is served under subsection (2) above, a new rent specified in the notice shall take effect as mentioned in the notice unless, before the beginning of the new period specified in the notice,—

(a) the tenant by an application in the prescribed form refers the notice to [the appropriate tribunal] ; or

(b) the landlord and the tenant agree on a variation of the rent which is different from that proposed in the notice or agree that the rent should not be varied.

(5) Nothing in this section (or in section 14 below) affects the right of the landlord and the tenant under an assured tenancy to vary by agreement any term of the tenancy (including a term relating to rent).

#### **s.14.— Determination of rent by [tribunal] .**

(1) Where, under subsection (4)(a) of section 13 above, a tenant refers to [the appropriate tribunal] a notice under subsection (2) of that section, the [appropriate tribunal]<sup>3</sup> shall determine the rent at which, subject to subsections (2) and (4) below, the [appropriate tribunal]<sup>3</sup> 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; and

(d) in respect of which the same notices, if any, have been given under any of Grounds 1 to 5 of Schedule 2 to this Act, as have been given (or have effect as if given) in relation to the tenancy to which the notice relates.

(2) In making a determination under this section, there shall be disregarded—

(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 carried out by a person who at the time it was carried out was the tenant, if the improvement—

(i) was carried out otherwise than in pursuance of an obligation to his immediate landlord, or

(ii) was carried out pursuant to an obligation to his immediate landlord being an obligation which did not relate to the specific improvement concerned but arose by reference to consent given to the carrying out of that improvement; and

(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.

(3) For the purposes of subsection (2)(b) above, in relation to a notice which is referred by a tenant as mentioned in subsection (1) above, an improvement is a relevant improvement if either it was carried out during the tenancy to which the notice relates or the following conditions are satisfied, namely—

(a) that it was carried out not more than twenty-one years before the date of service of the notice; and



(b) that, at all times during the period beginning when the improvement was carried out and ending on the date of service of the notice, the dwelling-house has been let under an assured tenancy; and

(c) that, on the coming to an end of an assured tenancy at any time during that period, the tenant (or, in the case of joint tenants, at least one of them) did not quit.

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(3A) In making a determination under this section in any case where under Part I of the Local Government Finance Act 1992 the landlord or a superior landlord is

liable to pay council tax in respect of a hereditament (“the relevant hereditament”) of which the dwelling-house forms part, the [appropriate tribunal] shall have regard to the amount of council tax which, as at the date on which the notice under section 13(2) above was served, was set by the billing authority—

(a) for the financial year in which that notice was served, and

(b) for the category of dwellings within which the relevant hereditament fell on that date,

but any discount or other reduction affecting the amount of council tax payable shall be disregarded.

(3B) In subsection (3A) above—

(a) “*hereditament*” means a dwelling within the meaning of Part I of the Local Government Finance Act 1992,

(b) “*billing authority*” has the same meaning as in that Part of that Act, and

(c) “*category of dwellings*” has the same meaning as in section 30(1) and (2) of that Act.

(4) In this section “*rent*” does not include any service charge, within the meaning of section 18 of the Landlord and Tenant Act 1985, but, subject to that, includes any sums payable by the tenant to the landlord on account of the use of furniture [, in respect of council tax] or for any of the matters referred to in subsection (1)(a) of that section, whether or not those sums are separate from the sums payable for the occupation of the dwelling-house concerned or are payable under separate agreements.

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

(6) In any case where—

(a) [the appropriate tribunal] have before them at the same time the reference of a notice under section 6(2) above relating to a tenancy (in this subsection referred to as “the section 6 reference”) and the reference of a notice under section 13(2) above relating to the same tenancy (in this subsection referred to as “the section 13 reference”), and

(b) the date specified in the notice under section 6(2) above is not later than the first day of the new period specified in the notice under section 13(2) above, and

(c) the [appropriate tribunal]<sup>9</sup> propose to hear the two references together, the [appropriate tribunal] shall make a determination in relation to the section 6 reference before making their determination in relation to the section 13 reference and, accordingly, in such a case the reference in subsection (1)(c) above to the terms of the tenancy to which the notice relates

shall be construed as a reference to those terms as varied by virtue of the determination made in relation to the section 6 reference.

(7) 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, 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 committee may direct.

(8) Nothing in this section requires [the appropriate tribunal] to continue with their determination of a rent for a dwelling-house if the landlord and tenant give notice in writing that they no longer require such a determination or if the tenancy has come to an end.

(9) This section shall apply in relation to an assured shorthold tenancy as if in subsection (1) the reference to an assured tenancy were a reference to an assured shorthold tenancy.