



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

Case Reference : **CHI/43UB/MNR/2023/0147**

Property : **Flat 3, Lavender Court
Molesham Way
West Molesey
Surrey
KT8 1NY**

Applicant Tenant : **Mr M Barnes**

Representative : **None**

Respondent Landlord : **Area Estates Limited**

Representative : **Hamways Limited**

Type of Application : **Determination of a Market Rent sections
13 & 14 of the Housing Act 1988**

Tribunal Members : **Mr I R Perry FRICS
Mr M J Ayres FRICS
Mr S J Hodges FRICS**

Date of Inspection : **None. Paper determination**

Date of Decision : **14th August 2023**

DECISION

Summary of Decision

1. On 14th August 2023 the Tribunal determined a market rent of £950 per month to take effect from 31st May 2023.

Background

2. The case concerned the determination of a market rent for the subject property following a referral of the Landlord's notice of increase of rent by the Tenant pursuant to sections 13 and 14 Housing Act 1988.
3. On 25th April 2023 the Landlord served a notice under Section 13(2) of the Housing Act 1988 which proposed a new rent of £920 per month in place of the existing rent of £880 per month to take effect from 31st May 2023. The notice complied with the legal requirements.
4. On 15th May 2023 the Tribunal received an application from the Tenant under Section 13(4) (a) of the Housing Act 1988.
5. The Tribunal does not consider it necessary and proportionate in cases of this nature to undertake inspections or hold Tribunal hearings unless either are specifically requested by either party or a particular point arises which merits such an inspection and/or hearing.
6. The Tribunal issued directions on 12th July 2023 informing the parties that, unless either party objected, the Tribunal intended to determine the rent based on written representations. The parties were invited to make submissions which could include photographs or videos.
7. Both parties submitted papers by the specified dates setting out their respective cases. The papers were also copied to the other party.
8. Neither party objected to the matter being determined without an oral hearing, so the Tribunal determined the case on 14th August 2023 based on the written representations received.

The Property

9. From the information given in the papers and available on the internet, the property comprises a first floor flat within a 3-storey purpose-built block of flats less than 1 mile from the centre of Molesey.
10. The accommodation includes a Hall, Living Room, Kitchen, 2 Bedrooms, Bathroom, Garage and use of Communal gardens.

Submissions

11. The initial tenancy began in about October 2018 which the Tenant says is an Assured Succession Tenancy. The Notice served refers to an Assured Periodic Tenancy. The Tenant says that he succeeded his father at the property.
12. The accommodation has double-glazed windows and night storage heating. Carpets are fitted but the Tenant is responsible for curtains and white goods.

13. The Landlord states that the property was refurbished in 2022, which is confirmed by the Tenant, and provides details of several other properties in the block which have been advertised to let at rents from £922 per month to £1,275 per month.
14. The Tenant states that recent decoration has covered over dampness and that the storage heaters and previous secondary glazing was fitted by his father.
15. The Tenant states that the rent should remain at its present level due to lack of maintenance over many years and informs the Tribunal that a neighbour has been served with a Notice to increase his rent to £1,000 per month, despite that flat also suffering from damp issues.
16. The Tenant informs the Tribunal that he is in receipt of various state benefits and also provided a number of internal photographs of the property which showed the carpets to be worn.

The Law

S14 Determination of Rent by First-tier Tribunal

- (1) Where, under subsection (4) (a) of section 13 above, a tenant refers to a First-tier 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; 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.
- (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.

Consideration and Valuation

- 17. The Tribunal first considered whether it felt able to reasonably and fairly decide this case based on the papers submitted only with no oral hearing. Having read and considered the papers it decided that it could do so.
- 18. The Tribunal is required to determine the rent at which the subject property might reasonably be expected to be let in the open market by a willing Landlord under an assured tenancy. The personal circumstances of the Parties are not relevant to this issue.
- 19. Having carefully considered the representations from the parties and associated correspondence and using its own judgement and knowledge of rental values in West Molesey the Tribunal decided that the market rent for the subject property if let today in a condition that was usual for such an open market letting would be £1,175 per month.
- 20. However, the property is not let on the same terms or in the same condition as a fresh open market letting so the Tribunal needs to make some adjustments to this figure to take account of the variations from such a letting. These adjustments to include the dated kitchen and bathroom fittings.
- 21. Using its experience the Tribunal decided that the following adjustments should be made:

Tenant's provision of white goods	£30
Tenant's provision of curtains	£10

Internal damp issues	£20
Dated Kitchen	£50
Dated Bathroom	£15
Worn carpets	£50
Tenant's provision of storage heaters	£50
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TOTAL per month	£225

22. The Tenant made no representation that the starting date for the new rent specified in the Landlord's notice would cause the Tenant undue hardship.
23. The Tribunal is aware that this rent is higher than the figure proposed by the Landlord who is not obliged to charge this higher figure.

Determination

24. The Tribunal therefore decided that the rent at which the subject property might reasonably be expected to be let in the open market by a willing Landlord under the terms of this assured tenancy was £950 per month.
25. The Tribunal directed that the new rent of £950 per month should take effect from 31st May 2023, this being the date specified in the Notice.

RIGHTS OF APPEAL

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application to the First-tier Tribunal at the Regional office which has been dealing with the case. Where possible you should send your application for permission to appeal by email to rpsouthern@justice.gov.uk as this will enable the First-tier Tribunal Regional office to deal with it more efficiently.
2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.
3. If the person wishing to appeal does not comply with the 28-day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.