



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

Case reference : **JM/LON/OOBD/MNR/2023/0279**

Property : **47 Lower Richmond Road London SW14
7HH**

Applicant : **Janet I White**

Representative : **In Person**

Respondent : **V Bagga**

Representative : **In Person**

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

**Tribunal
member(s)** : **Mr R Waterhouse MA LLM FRICS
Mr A Ring**

**Date and venue of
hearing** : **6th October 2023 by Remote Video
hearing with inspection**

Date of Decision : **6th October 2023**

DECISION

Decision of the tribunal

The tribunal determines the rent at £444.00 per week. The rent to have effect from the date from the tribunal's decision 6th October 2023.

Background

1. The tribunal received an application under section 13 of the Housing Act 1988. dated 19th June 2023. This included the landlord's notice dated 31st May 2023 proposing a new rent to commence on 1st July 2023. The previous rent being £375.00 per week and the proposed £750.00 per month from 1st July 2023.
2. The Tenant requested an inspection and a hearing. The landlord requested only the hearing.
3. The property is a three-storey town house, built around 1810 there is a small front garden, on the ground floor there is hall passage, front living room, kitchen, steps down to WC and then garden. On first floor, a living room, rear double bedroom, on second floor front double bedroom, rear double bedroom, and a bathroom.
4. The tenancy commenced in 2015 it is an assured tenancy having succeeded two successive protected tenancies.

Applicant submissions.

5. Application Form -

6.Completed Reply Form -

The Tenant Miss J I White completed a Reply Form. Noting the request for a hearing and an inspection.

From the reply Form, the property is a House on three storeys, there is no central heating and no double glazing, the carpets and curtains along with white goods are supplied by the tenant. The property has a garden.

Under "Improvements" the following are noted, gas fire, fencing, and toilet cistern.

7.Copy of extracts of auction particulars showing the freehold sales over the years.

8.An email dated 29th September 2023 from Linda Pettitt, Miss J I Whites representative, noting that Linda Pettitt will not be joining the video hearing scheduled for the 6th October 2023.

9.A letter dated 28th August 2023, received 30th August 2023 by the tribunal from the tenant Miss J I White, which contains copies of several letters.

10.Letter to the tribunal dated 28th August 2023, from Miss J I White to the Tribunal, requesting a “statement of reasons” once the tribunal has made its decision.

11.Letter from the landlords Mr Vijay and Mrs Rajni Bagga , dated 18th May 2023 , to the tenant Miss J I White confirming what works were not agreed to be taking place and what works would be carried out subject to liaison between the landlord and the tenant.

12.Letter from Miss J I White Tenant to landlords Mr Vijay and Mrs Rajni Bagga dated 14th August 2023.

13.The letter is a summary of events between the landlord and tenant since the landlords purchase on 31st March 2023. It identifies the desire of the Tenant to remain with the house in its current condition and specifications other than ;the replacement of the “two water heaters”, for the roof to be looked at , because “ a couple of slates were down”, repairing the windows with associated structural and planning requirements being undertaken, finally discussions on how to proceed with electrical safety checks were ongoing.

A hearing bundle of 80 pages containing;

14.A letter to the tribunal dated 14th August 2023 detailing the reason why the proposed increase in rent from £375 per week to £750 per week is “unacceptable”. “Backdating any increase would be unaffordable”.

The reasons include , that the property is unmodernised and dilapidated, the house has been completely fitted out by the tenant.

The level of rent submitted as reasonable by the tenant is £375.00 per week.

15.The Appendix to the letter at Appendix 1 gives, background to the tenancy from 1937 . Appendix 2 details the tenants' improvements, dated 18th January 2016.

Copy of the First Tier Tribunal decision for 47 Lower Richmond road SW14 7HH dated 14th March 2016.

Copies for previous auction particulars relating to the property and details of gas fires installed in the property.

Various documents pertaining to the property and photographs of the garden.

16. Condition of property – outstanding necessary repairs T not refusing and LL willing but subject to ongoing liaison.

Respondents Submission

17. The Landlord submitted a completed Reply Form received by the tribunal 27 July 2023. Noting that they did not request an inspection but did request a hearing.

The form noted that central heating was provided by the landlord. Noting also there was off road parking.

18. Under “Improvements” the landlord noted “I have endeavoured to action a plan of improvements with the current tenant, but the tenant is not amicable to the works.”

19. Under “Disrepairs/Defects” “I am attempting to carry out a list of works but do not have the tenant's consent at the moment.”

20. The Reply Form noted a number of comparables ; a one-bedroom studio apartment on Lower Richmond Road to let at £1100.00 per month.

21. A second studio apartment on Lower Richmond Road to let at £1050 per month. A third at £985 per month.

22. A further comparable of a mid-terrace two storey house with four bedrooms on Lower Richmond Road at £3,000 per month.

23. Additionally, details of a property, four bedrooms and two bathrooms, to let in Eastbourne Gardens SW14 at £4750.00 per month and a property, three bedroom, at Vernon Road which is available on a short let at £ 6500 per month.

The Inspection

24. Externally the property is solid wall construction, mid terrace, the windows are the original sash windows. Painted soft wood and single glazed glass.

25. There is no cellar. The ground floor comprises, hall passage, front living room with gas fire, kitchen with timber-lined walls, wall mounted hot water boiler. Dated and basic built in cupboards and shelves., limited work tops and units, tenants' stove and white goods. At the time of the inspection the kitchen is the only source of hot water in the house.

26. There are steps down to the WC with hand basin and the door to the rear garden which opens into a lean to which is in poor condition.

The garden is reasonable size for the property and is fenced.

27. On the first floor, front living room with gas fire, rear double bedroom. On the second-floor front double bedroom, rear double bedroom with wall mounted gas water heater servicing the bathroom. At the time of inspection this had been disconnected. Access upstairs to bathroom in roof space comprising old bath and wash basin, there is no WC.

There are limited, dated electric power points throughout apart from one provided by a landlord in the hall.

28. The ceiling are original lathe and plaster papered over, they are cracked throughout, there are water stains to the chimney breast in the upper rear bedroom.

29. Numerous works had been carried out by the current tenant and her family whose occupation commenced in 1937. Miss J I White succeeded the protected tenancy held by her mother and in her term her grandmother. Under the legislation when Miss J I White succeeded the tenancy on the death of her mother in 2015, all improvements carried out prior to that date were transferred to the freeholder.

The landlord provided no services.

The Hearing

30. The Landlord Mr Bagga, attended the hearing by remote video. In his submission he identified the nature and condition of the property.

In terms of comparables he noted that the next-door property was being let as three separate studios, one per floor; £1100 per month, £1050 per month, and £985 per month.

31. A further comparable presented in the submissions was number 95 Lower Richmond Road, a four-bedroom house, at £3000 per month.

When asked by the tribunal what the anticipated rental value would be of the subject premises if refurbished to a contemporary standard the landlord felt a figure between £ 3500.00 and £3900.00 per month would be obtainable.

The landlord did not express a wish to attend the inspection.

32. The matter was decided on papers.

The Law

Valuation

33. 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

34.First the tribunal addressed some discrepancies in the evidence between the parties. The landlords reply form notes the property is centrally heated and has off road parking.

35.The inspection found on the second floor a gas water heater which had been decommissioned. The device was installed by the tenant or their predecessor prior to 2015. Upon the succession of the tenancy from a protected tenancy to an assured tenancy. The device which was an improvement past to the landlord. The property is not centrally heated.

36.There is a small front garden, there is no evidence it is capable of off-road parking in the current form.

37.It is worth reiterating that upon the succession of the tenancy to an assured tenancy all improvement up to that date pass to the landlord.

38.Second, when considering the determination of the rent under section 14, the comparables are all drawn from properties that are in a condition.

The tribunals approach to valuation is to identify suitable comparables, and adjust for the nature and condition of the subject property.

39.Considering the comparables . The nearest geographically is the three studio flats in the adjoining property their total asking rent is £ 3135.00 per month. The tribunal in their experience believes that a property let as three studio apartments may not be less in rental values than a property let as a single building.

95 Lower Richmond Road, a four-bedroom property, asking £3000.00 per month. This is a strong comparable but the comparable is property of different nature and unlike the subject premises, the subject premises looks out over playing fields.

40.The Eastbourne Road property is four bedrooms and two bathrooms, asking rent of £4750.00 per month. This property is of higher specification in terms of bathrooms than the subject premises.

The Vernon Road property is available on a short-term letting basis, which increases the level of rent but is not the nature of letting envisioned by the assured tenancy.

41.Third, taking the submissions from both parties the tribunal finds that the subject property in a contemporary condition for letting on the market would command a rent of £3500.00 per month.

42.Fourth the property is not in this condition. The property has deteriorated further from the last tribunal determination when the tribunal found an allowance of 40%. Since this date the windows have deteriorated further and the only source of hot water above the ground floor has stopped working. The tribunal is aware from the submissions that the landlord is attempting to resolve this and that the tenant is supportive, however as at the date of the determination the facility is not working nor is there a definite agreed plan evidenced to rectify.

43.A discount from the rental level assumed in good condition to current condition of 45% is determined.

Applying this to the rent of £3500.00 per month provides a monthly rent of £1925 per month equivalent to £444.23 rounded to £444.00 per week.

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.

44. 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 £444.00 per week.

45.The Regulations provide for where there is evidence of hardship the effective date of an increase can be adjusted by the tribunal from the date envisaged in the landlords Notice of Increase which in this case is 1st July 2023 to the date of decision which is 6th October 2023.

46.The tenant notes in their submissions, letter dated 14th August 2023 that “any increase “backdating any increase would be unaffordable”. Further “The £375 weekly rent paid to Mr Bagga, made up of my pension and the Government Benefit System. However, there is a cap on what they can pay.”

There is no evidence to the contrary on this point, the tribunal therefore determines the rent as £444.00 per week payable from 6th October 2023.

Name: Chairman Waterhouse

Date: 6th October 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.

]

(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.

[

(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.

]

(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]³ shall determine the rent at which, subject to subsections (2) and (4) below, the [appropriate tribunal]³ 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.

[

(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]⁹ 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.