



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

Case reference : **FL/LON/OOBG/MNR/2023/0272**

Property : **Flat 809, 99 Blackwall Way, London E14
9QU**

Applicant : **Ms Shakerah Browne**

Representative : **In Person**

Respondent : **Weicheng Cai**

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** : **5th October 2023 Video Hearing
followed by inspection**

Date of Decision : **5th October 2023**

DECISION

Decision of the tribunal

The tribunal determines the rent at £1800.00 per month. The rent to have effect from the date in the landlords notice of 9th June 2023 that is an effective date of 19th July 2023.

Background

1. The tribunal received an application under section 13 of the Housing Act 1988, dated 14th June 2023.
2. This included the landlord's notice dated 9th June 2023 proposing a new rent to commence on 19th July 2023. The previous rent being £1400.00 per month and the proposed £1800.00 per month from 19th July 2023.
3. The landlord in their reply form, requested both an inspection and a hearing. The tenant reply form notes the same.
4. The property is an 8th floor flat comprising one living room, one bedroom, and one bathroom, and a kitchen.
5. The tenancy commenced on the 19th June 2021 for fixed contractual period of 12 months. The last contractual day being therefore 18th June 2022. The statutory periodic tenancy then commenced on the 19th June 2022.
6. Directions were issued to the parties dated 4th July 2023.

Applicant submissions prehearing.

7. A separate letter enclosed with the application form noted the following;

The initial rent at the commencement of the tenancy was £ 1260 per month. Upon expiry of the contractual term the tenancy reverted to a statutory periodic tenancy. The water bill was included in the rent.

Discussions over a rent increase took place from February 2022 resulting in the service of a section 13 Notice on the 9th June 2023.

8. In terms of disrepair, mould is noted around the windows, and there is a dispute between the landlord and the tenant over responsibility to address it.

Further the landlord removed a heater from the property, this left holes in the floor where bugs emerge. The landlord has not fixed the holes.

Finally, the front door was broken down by the fire service, on 8th June 2023, responding to a faulty fire system the landlord had installed.

In summary, the property remains in a bad condition and the rent increase is unreasonable.

A completed Reply Form accompanied by a number of photographs.

Photographs of the property, showing various defects.

Respondents Submission

9. The respondents submitted a number of documents.

A completed Reply Form noting in summary:

Living room – new wooden floors installed 2018 – double glazing

Kitchen – new tiles 2018

Bedroom – new carpet 2018

Bathroom – new tiles 2018

Hallways – new wooden floor 2018

10. Further it was noted that curtains, carpets and white goods were supplied by the landlord. There is also off-street parking.

Under improvements the landlord noted that new two new heaters were added in 2022.

A letter / submission from the Landlord amounting to 90 pages was also included.

The Hearing

11. The hearing largely reiterated the material already provided by the parties. The submissions covered a range of material, but the tribunal is only

concerned with the matters that make contribute to the determination of the rent. The submissions relating to this are listed below.

The issues comprised; the mould around the windows, the tenant acknowledging this had been resolved at date of hearing through the freeing up of the vents within the window.

12.The intercom, it was acknowledged by the landlord that this had not worked at times. The landlord is a leaseholder of the property. The Freeholder of the block is responsible for repair of certain items including the external parts of the intercom. The Landlords has a property manager, and they contract out repairs to a company called Access. It was agreed at the time of the hearing the intercom was functioning.

The tenant submitted the lift has been out of action periodically, and as there is only one lift this has required the respondent to use the stairs to access the eight floor. This has been exacerbated through the tenant's health issues. The lift is now functioning.

13.The applicant tenant raised concerns about an infestation of bugs in the property. The landlord has instructed a Pest Control Company to attend, the Pest Control Company has treated he property and believed the treatment to be satisfactory. The applicant considers at the date of the hearing that the issue is still live.

14.The fire door, during the tenancy a newly fitted fire alarm, fitted by the landlord went off erroneously while the tenant was out. The fire service entered the property by breaking the front door. The landlord arranged with the freeholder's property management company and their contractor to fit a replacement door. The new door has been fitted but whilst the door is fire compliant the fitting was not. Further work to comply has been arranged by the landlord to meet the relevant standards. There was concern expressed by the applicant tenant over the conduct of the fitters, but this is not a matter the tribunal can take into account in the determination of the rent.

15.The tenant felt that an appropriate level of rent for the property was the pre-Notice of Increase amount that is £1400.00, and that the landlords comparables related to larger properties with more amenities. The landlord felt the figure of £1800.00 was correct given their research of comparables in the area.

The Inspection

16.The tribunal inspected, finding a one-bedroom flat with laminate flooring in all areas other than the bedroom. The bathroom was tidy, but the exterior was not working at the time of the inspection. The kitchen was in good order. Neither the kitchen nor the bathroom had natural light. The living room had an electric heater. The bedroom had two layers of carpet. No mould was

evident on the windows. There was slight staining on the ceiling of the bedroom.

The Law

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. The tribunal was grateful for the clearly articulated submissions of both parties. It was important to distinguish between alleged conduct of various contractors in their attempts to rectify various issues with the material considerations that under pin the determination of the rent.

19. 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.

20. 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 £1800.00 per month effective from the date of Notice of Increase.

Name: Chairman Waterhouse

Date: 5th 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.

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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]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.

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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]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.