



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

**Case Reference** : **LON/00AE/MNR/2023/0211**

**Property** : **41 West Hill Wembley Middlesex HA9  
9RN**

**Applicant** : **Karim Touqmatchi**

**Respondent** : **Omar Shuker**

**Representative** : **Landau and Cohen Solicitors**

**Type of Application** : **Determination of the market rent  
under Section 14 Housing Act 1988**

**Tribunal** : **Mrs E Flint FRICS  
Mr J Francis QPM**

**Date and venue of  
Determination** : **18 December 2023  
10 Alfred Place London WC1E 7LR**

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**DECISION**

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The market rent is £1450 per month with effect from 1 December 2023.

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## **Background**

1. On 25 April 2023 the tenant referred to the tribunal a notice of increase of rent served by the landlord under section 13 of the Housing Act 1988.
2. The landlord's notice, which was dated 2 March 2023, proposed a rent of £2800 per month with effect from 1 May 2023 in place of the existing rent of £1300 per month.
3. The tenant occupies under a periodic tenancy which commenced on the expiry of a tenancy for twelve months from 1 April 2016.
4. Directions were issued by the tribunal on 5 June 2023.
5. The application was listed for a determination on 29 August 2023. The Tribunal inspected in the morning and heard evidence from the tenant in the afternoon. However, it became apparent that the landlord's representative had not received the Tribunal's Directions or the notification of the hearing. Consequently, a revised set of Directions were issued and the application set down for hearing by the same Tribunal on 18 December 2023.
6. The applicant appeared in person and the landlord was represented by his solicitor Mr Jeffrey Turofsky of Landau and Cohen Solicitors.
7. Prior to the hearing both the landlord and tenant sent their submissions to the tribunal and copied them to the other party.

## **The Inspection**

8. The property is a detached house with garage on a sloping site in a residential street of similar aged houses. The driveway and garage doors were in poor condition, the canopy over the front door also required to be repaired. The fence on the right hand side had partially collapsed. The first floor was rendered; the render was cracked in a number of places. There was a derelict covered way to the left side of the house. The main roof had a number of slipped tiles and the ridge pointing was in poor condition. Patio doors at the rear led onto a paved area which was subsiding.
9. Internally the accommodation which is centrally heated comprised on the ground floor a through living room, where the landlord had supplied laminate flooring. A wc/ wash basin with fully tiled walls was situated under the stairs. The kitchen was at the rear right of the property, it was fitted with dated, poor quality units, including a fitted oven and old gas hob. The floor was sinking and the plaster on the flank wall was shot.

10. A door from the kitchen led into the garage where a combi wall mounted gas boiler was situated; there was evidence of leaks on the pipework.
11. On the first floor there were three bedrooms and a bathroom/wc. There were cracks in the plaster in all the bedrooms and damp in both the front left and rear rooms. The bathroom had fully tiled walls.

### **The hearing**

12. At the commencement of the hearing both parties agreed that there was no need for the Tribunal to make a further inspection.
13. Mr Touqmatchi, referring to the condition of the property, said the house was not marketable in its current condition. There was no gas safety certificate, had been no electrical inspection, there were no smoke alarms provided although he installed one himself and there was no EPC. The landlord did not manage the property, he paid the rent into the landlord's bank account, there was no managing agent involved.
14. He denied that he had refused entry to the property to enable a gas safety inspection to take place. He said that he had refused entry once when someone turned up on his doorstep without giving notice: he had been about to go out so sent a message to the landlord advising that he would allow entry if an appointment was made. He had heard nothing in response.
15. He referred to the landlord's comparables. He did not accept the valuation of £2600 - £2800 by Smith Melzack: no one had visited the property. He thought the firm were no longer in business as their office was closed.
16. The Belvoir report referred to three asking rents of detached houses in East Hill at rents of £2700 and £2650 and a semi-detached house in outstanding condition in Barn Hill at £2550. He was of the opinion that all four properties were in superior locations. Based on his knowledge of the area he thought rents in these roads would be about 30% higher than West Hill.
17. He had listed the issues with the house in his written submissions: the gas boiler requires replacement; there is a defect in the kitchen floor; there is rising damp in the kitchen and black mould in the kitchen and bedrooms; the garage door does not open properly and the driveway, patio and garden fence are in disrepair and the gutters and sewage system require repair. The property next door looks like a scrap yard. It was not the landlord's fault but would affect the value of the subject property.
18. Taking into account all of the above Mr Touqmatchi detailed his valuation to arrive at a figure of £1300 per month: He began with a net rent i.e. net of management fees of £2200 and deducted a total of 45% for location, condition, scrapyard next door and lack of compliance with the legal requirements.

19. He said that until earlier this year the landlord had been happy to do nothing to the house and receive £1300 per month into his account. He received a letter dated 30 January from the landlord's solicitors proposing an increase to £1800 per month with effect from 1 March 2023. He then received a letter dated 6 February proposing an increase to £2800 per month from 1 March 2023. The section 13 notice proposing an increase to £2800 from 1 May 2023 was dated 2 March 2023. He had informed his landlord that he objected to the increase and that he would apply to the Tribunal for a determination.
20. He was of the opinion that the rent should stay the same until the condition of the house changes. He said that the landlord's father who was familiar with the house was aware of its condition, The landlord himself had never been involved as he lived abroad.
21. In written submissions the landlord provided a desk top valuation by Smith Melzack at £2600 - £2800 per month and a report by Belvoir listing the four comparables referred to by Mr Touqmatchi above.
22. Mr Turofsky said that if the house was in the condition described by Mr Touqmatchi he could have complained or indeed even withheld the rent until the repairs were completed.
23. The landlord was entitled to exercise his right to increase the rent which had remained at the same level throughout the tenancy. The tenant had not produced any rental evidence and his adjustments to the average rent, net of management fees, were arbitrary.
24. He accepted that no electrician had been asked to carry out any checks and was unable to adduce any evidence that access to a gas engineer had been denied, other than on the occasion mentioned by the applicant himself. He had only become involved with the property this year.
25. He accepted that £2800 was a full figure, he thought the rental value of the house was about £2650 per month.
26. He confirmed that the landlord had instructed him to write the letter of 30 January proposing a rent of £1800 per month. The subsequent proposed increase to £2800 was he said, after taking advice. He had first become aware of the condition of the property when reading Mr Touqmatchi's reply form to the tribunal.
27. He confirmed that he was not familiar with the area or the subject property and that this was not his area of expertise.

## **The law**

28. In accordance with the terms of section 14 Housing Act 1988 we proceeded to determine the rent at which we considered that the subject property might reasonably be expected to be let on the open market by a willing landlord under an assured tenancy.
29. In so doing we, as required by section 14(1), ignored the effect on the rental value of the property of any relevant tenant's improvements as

defined in section 14(2) of that Act and also any items of disrepair which either the tenant had not reported to the landlord or had not allowed access for the landlord to carry out the necessary repairs.

## **Valuation**

30. In coming to our decision, we relied on the rental comparables provided by the landlord. We accepted that based on the comparables £2650 per month would be an appropriate starting point, taking into account that the asking rent of £2550 was for a semi-detached house in outstanding condition.
31. However, this house is in a less desirable area and is not in the same condition as those available to let on the open market. It appears that there has been no actual management of the property for a number of years. We therefore adjusted the rent making deductions for the less desirable location, unmodernised kitchen, old gas boiler with leaking pipework, mould in the kitchen and bedrooms, poor external condition, poor condition of the driveway and garage doors. We are of the opinion that these matters require a deduction of £1200 leaving a market rent of £1450 per month.
32. We determine that the open market rent of the property as at 1 May 2023 is £1450 per month.

## **Hardship**

33. In his written submissions and at the end of his evidence the applicant asked the Tribunal to exercise its discretion under section 14(7) regarding the start date of the new rent. He disclosed his monthly income which he said had reduced following Covid and that he had approximately £10,000 in savings. He said that backdating any increase would cause him undue hardship as each month he was obliged to dip into his savings to pay the bills at the current rent.
34. Mr Turofsky asked that the revised rent should be backdated to 1 May 2023. He said he thought the applicant could not afford to continue living in the house, knew that an increase was likely and ought to have been putting money aside to cover the increase.

## **The decision**

35. The revised rent of £1450 per month will take effect from 1 December 2023 as to back date it further would cause the tenant undue hardship.
36. It is clear to the Tribunal that backdating the rent by some seven months would cause significant and undue hardship to the tenant.

Chairman: Evelyn Flint

Dated: 15 December 2023

## **ANNEX - RIGHTS OF APPEAL**

- I. 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 should be made on Form RP PTA available at <https://www.gov.uk/government/publications/form-rp-pta-application-for-permission-to-appeal-a-decision-to-the-upper-tribunal-lands-chamber>
- II. 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.
- III. 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.
- IV. 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. Please note that if you are seeking permission to appeal against a decision made by the Tribunal under the Rent Act 1977, the Housing Act 1988 or the Local Government and Housing Act 1989, this can only be on a point of law.

## **Appendix**

### **Housing Act 1988**

14 Determination of rent by rent assessment committee.

(1) Where, under subsection (4) (a) of section 13, a tenant refers to a rent assessment committee a notice under subsection (2) of that section, the committee shall determine the rent at which, subject to subsections (2) and (4) below, the committee 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 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....

(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 ... 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.





