



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

**Case Reference** : **LON/00AQ/MNR/2023/0458**

**Property** : **35 Lodgehill Park Close Harrow HA2  
0PD**

**Applicant** : **James Byrne and Evelyn  
Evelyn Paklayan**

**Representative** : **In person**

**Respondent** : **Mrs Hansa Prabhul Malde**

**Representative** : **Colin Dear Residential Limited**

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

**Tribunal** : **Mrs E Flint FRICS  
Mr O N Miller BSc**

**Date and venue of  
Hearing** : **12 February 2024  
10 Alfred Place London WC1E 7LR**

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**DECISION**

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The market rent is £950 per month with effect from 15 December 2023.

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## **Background**

1. On 5 November the tenants 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 23 October 2023, proposed a rent of £1250 per month with effect from 15 December 2023 in place of the existing rent of £950 per month.
3. The tenants occupy under a periodic tenancy which commenced on the expiry of a tenancy for twelve months from 15 October 2021 at an initial rent of £950 per month.
4. Directions were issued by the tribunal on 4 December 2023.
5. Prior to the hearing both the landlord's agent and the tenant sent their submissions to the tribunal and copied them to the other party. The tenants attended the hearing in person, the landlord did not attend and was not represented.

## **The Evidence**

6. Mr Byrne spoke on behalf of the joint applicants. He explained that their concern was with the damp and mould throughout the flat. They had reported the mould to the managing agent in late 2019; it had started in the corners. He had tried scrubbing the walls. There were two types of mould: black and grey. Their health had been affected by the mould.
7. He had painted the areas of mould with anti mould paint. He thought the flank wall was affected by penetrating damp. There were dark marks on the ceiling of the living room aligned with the ceiling joists. He thought the gutters had not been cleaned for about two years.
8. He was of the opinion that the problem was exacerbated by the heating system which comprised old night storage heaters in the living and bedroom plus wall mounted electric fan heaters in the kitchen and bathroom. The night storage heaters were inefficient. The one in the living room set off the smoke alarm, he assumed because it had not been cleaned out internally.
9. He understood that the ground floor flats had laminate flooring. He was not sure whether the heating had been upgraded. He accepted that the starting point in assessing the rent on the subject property should be £1100 per month, which was the rent being paid for No.34, as it was the other flat on the second floor. However, deductions should be made for the extensive areas of mould, unmodernised bathroom and kitchen and the inadequate heating system.

10. In written submissions the landlord's agent provided a copy of the inventory taken in 2028 when a new hob had been installed. The windows had been double glazed in 2019.
11. No.34 was identical to No.35 and had no mould issues. The tenant had agreed to a new rent of £1100 per month with effect from December 2023. No.30 on the ground floor had been let at £1250 per month in May 2023 and No.31, also on the ground floor, had been let at £1300 per month from October 2023.

### **The inspection**

12. The Tribunal inspected the flat on the afternoon of 12 February 2024. The block is situated within a small estate of similar properties. Externally the block was in fair condition although there were some areas of stained brickwork and there was evidence of vegetation growing in the gutters.
13. The common parts had painted walls which were scuffed, the floor and stairs were carpeted. The carpet was grubby with numerous stains.
14. The flat is on the second floor, there was no lift. The accommodation comprised two rooms, kitchen and bathroom/wc. There were significant areas of the walls which had been painted in anti mould paint and small areas of black mould, particularly adjacent to the windows in the living room and bedroom, above the window in the bathroom and rear wall of the kitchen. The external flank wall in the living room had some staining. The flat is partly within the mansard.
15. The night storage heaters appear to be those which were installed when the block was built. The kitchen units are old and worn. The bathroom has a grey suite, it is also dated.

### **The law**

16. In accordance with the terms of section 14 Housing Act 1988 I proceeded to determine the rent at which I considered that the subject property might reasonably be expected to be let on the open market by a willing landlord under an assured tenancy.
17. In so doing I, 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**

18. In coming to our decision, we took into account the rental comparables provided by the landlord and the tenants' acceptance that £1100 per month was a fair starting point in view of the rent paid on the other second floor flat in the block.
19. We determine that the open market rent of the property as at 15 December 2023 would be £1100 per month if the flat was in good condition with an adequate heating system. Taking into account the

physical condition of the flat and lack of modern kitchen and bathroom we determine that the open market rent as at 15 December 2023 is £950 per month.

## **The decision**

20. The rent of £950 per month is effective from 15 December 2023 in accordance with the landlord's notice.

Chairman: Evelyn Flint

Dated: 14 February 2024

## **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.

