



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

Case reference : **HS/LON/00AM/MNR/2023/0473**

Property : **19 Felstead Street, Hackney Wick,
London, E9 5LZ**

Tenant : **Mr & Mrs Mercan**

Landlord : **Mr Ayodeji Amos Fifo**

Date of application : **20 November 2023**

Type of application : **Application for determination of market
rent following a Notice of Increase
served pursuant to Section 13 of the
Housing Act 1988.**

**Tribunal
member(s)** : **Mr O Dowty MRICS
Mr N Miller**

Venue : **10 Alfred Place, London, WC1E 7LR**

Date of decision : **21 February 2024**

REASONS FOR DECISION

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Background

1. The tenant lives in the property under a monthly contractual periodic tenancy that is a continuation of a prior, 2 year fixed term assured shorthold tenancy which commenced on 1 September 2021.

2. The landlord served on the tenant a Notice of Increase, dated 11 October 2023, proposing to increase the rent at the property from £1,914.73 per month to £2,300 per month with effect from 1 December 2023.
3. On 20 November 2023 the Tribunal received an application, dated 17 November 2023, from the tenant referring the landlord's Notice of Increase to the tribunal, challenging the increase and seeking a determination of the market rent.
4. The Tribunal issued Directions on 18 December 2023, which invited the parties to provide a reply form and make any other submissions they wished to make. The tenant provided a reply form, a letter with further submissions concerning Local Housing Allowance rates and photographs. The landlord did not provide either a reply form or other submissions.
5. The tenant indicated, in their reply form, that they wished the Tribunal to hold a hearing in this matter and to inspect the property. The Tribunal therefore arranged for a face-to-face hearing followed by an inspection, to be held at 10 Alfred Place, London, WC1E 7LR on 20 February 2024.
6. The Tribunal sent a letter to the parties on 26 January 2024, advising them of the time and date of that hearing. That letter was sent via email to the tenants, by use of the email address in their application form to which the Tribunal's directions had also been sent. The Tribunal made itself available for that hearing, however neither party attended it and no explanation was provided for either party's absence. The Tribunal considered that sufficient notice of the hearing had been provided, and neither party had informed the Tribunal of any reason they could not attend it.
7. Accordingly, the Tribunal continued to make its decision on the basis of the submissions provided to it in writing, in connection with its inspection of the property – which nevertheless went ahead, with one of the tenants Ms Mercan providing access, later that day.
8. The Tribunal notes for completeness that, whilst not strictly relevant as the Tribunal did in fact attempt to hold a hearing – only being prevented from so doing by neither party attending it - the Tribunal considered this was nevertheless a case that did not require a hearing and was suitable for a decision on the papers in connection with an inspection.

The Tenant's Submissions

9. The tenant's submissions consisted of a reply form, a letter with further submissions concerning Local Housing Allowance rates and

photographs. Whilst the reply form did not outline the tenant's claimed items of disrepair, it is clear that the photographs provided alongside it are photographs of what the tenant believes to be those items of disrepair.

10. The tenant's reply form indicated that the property did not have central heating, that the landlord had provided double glazing, and that the tenant had provided carpets, curtains and all white goods except the refrigerator.
11. The tenant also submitted that they had painted and "deep cleaned" the property when they moved in.

The Inspection

12. The property is a 3 bedroom flat located on the 1st floor of a circa 1990s purpose built block on the corner of Felstead Street and Prince Edward Road in Hackney Wick. The flat is relatively small given the number of rooms, offering a kitchen, bathroom and living room in addition to the bedrooms. There is no private outdoor space nor a balcony at the property.
13. The Tribunal observed that the pictures the tenant had provided previously were accurate (save for the external photograph provided which was of a different property), and that there was disrepair at the property. In particular, there were significant mould issues around most of the windows of the property which did not appear to be consistent with a condensation related cause. The floor coverings were in a poor condition, and the general condition of the property was somewhat shabby.
14. In addition, the bathroom and kitchen of the property were basic, and the tenant had provided some white goods.
15. Whilst the tenant's photographs were accurate, parts of the tenant's reply form did not appear to be. In particular, the property is centrally heated; there are no carpets at the property, the landlord having installed the floor coverings that are present (the tenant raising the condition of the floor coverings as an item of disrepair); and the landlord had provided an oven by way of white goods not just a refrigerator (which, again, the tenant had provided a photograph of by presumed way of complaint as to its condition).

The law

16. The way in which the Tribunal is to determine a market rent in this circumstance is set out in Section 14 of the Housing Act 1988. That section is too lengthy to quote in entirety in these reasons. In brief, the tribunal is to determine the rent at which the property might reasonably be expected to be let in the open market by a willing

landlord under an assured tenancy, subject to disregards in relation to the nature of the tenancy (i.e. it being granted to a “sitting tenant”) and any increase or reduction in the value due to the tenant’s carrying out improvements which they were not obliged to carry out by the lease or their failure to comply with the terms of the tenancy. Of particular relevance in this instance are subsections 2 & 7:

(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.

(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, with effect from such later date (not being later than the date the rent is determined) as the appropriate tribunal may direct.

Valuation

17. In the first instance the Tribunal determined what rent the Landlord could reasonably be expected to obtain for the property in the open market if it were let in the condition and on the terms that are considered usual for such an open market letting.
18. Neither party provided any evidence to the Tribunal concerning its value – save for the tenant making reference to their being “committed” to paying the Local Housing Allowance rate of £2,154 per month when it increased on 1 April 2024. Accordingly, the Tribunal considered the value of the property in light of its expert knowledge and experience of rental levels in the area.
19. The Tribunal considered that a rent in the range of £2,750 per calendar month would be appropriate for the subject property, were

it let by the landlord in the condition and on the terms considered usual for such a letting.

20. This hypothetical rent is adjusted as necessary to allow for the differences between the terms and conditions considered usual for such a letting and the condition of the actual property at the date of the determination. Any rental benefit derived from Tenant's improvements is disregarded.
21. The Tribunal made a deduction of 10% to account for the mould at the property around the windows.
22. The Tribunal made a deduction of 5% to reflect the bath and the kitchen being quite basic, and the tenant's provision of some white goods in the kitchen.
23. The Tribunal made a deduction of 5% to reflect the condition of the floors, the general shabby condition of the property decoratively and the fact that decorative condition would have been worse were the tenant not to have provided curtains and repainted and cleaned it when they moved in.
24. The Tribunal did not make a deduction to account for the condition of the oven. It appeared to the Tribunal that the photograph provided illustrated that it required cleaning by the tenant rather than indicating a value significant issue.
25. The Tribunal therefore arrived at a value of £2,200 per calendar month, as shown in the valuation below:

Market Rent Per Month		£2,750
	LESS 10% Mould around windows	-£275
	LESS 5% Bathroom, kitchen and white goods	-£137.50
	LESS 5% Condition of floor coverings and general decorative condition	-£137.50
	Total	£2,200 pcm

Effective Date

26. As set out in Section 14(7) of the Housing Act 1988, the effective date of a Tribunal determination under that section is the rent increase date that was provided in the landlord's Notice of Increase – unless it appears to the Tribunal that this would cause the tenant undue

hardship. In those circumstances, the Tribunal may adopt a later effective date for its determination, being not later than the date on which the determination is made.

27. The tenant provided a letter setting out that they were in receipt of Local Housing Allowance (LHA). The relevant LHA rate was to increase to £2,154 from 1 April 2024, and the tenant therefore sought the Tribunal's "approval for this rent adjustment".
28. The landlord made no submissions regarding the effective date of the Tribunal's decision.
29. The Tribunal noted the tenant's submissions, however they appear to be unfamiliar with the role of the Tribunal in this matter. No reference was made at all in the tenant's submissions to their experiencing financial hardship as a result of the rent increase, and whilst the Tribunal notes the tenant's submissions do make clear that the tenant receives LHA payments, the Tribunal did not consider that this alone was sufficient to establish that the tenant would experience 'undue hardship' were the rent to take effect from the date specified in the landlord's notice.
30. Accordingly, the Tribunal determined that the rent would take effect from the date specified in the landlord's notice – being 1 December 2023.

Decision

31. Pursuant to the considerations above, the Tribunal determined a rent of £2,200 per month in this matter, such rent to take effect from 1 December 2023.

Valuer Chairman: Mr Oliver Dowty MRICS
Dated: 25 March 2024

ANNEX - 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 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>

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. **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.**

If the Tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).