



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

Case Reference : **LON/OOAC/MNR/2024/0018**

Property : **Flat 4 19 Brent Street London NW4
2EU**

Applicant : **Mr James Gibson**

Respondent : **B Perl and S Perl**

Representative : **Bude Nathan Iwanier LLP**

Date of Application : **14 December 2023**

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** : **14 March 2018
10 Alfred Place,
London WC1E 7LR.**

DECISION

The rent payable from 15 January 2024 is £222 per week.

© CROWN COPYRIGHT

Background

1. On 14 December 2023 the tenant of the above property 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 proposed a rent of £450 per week, including £15 for hot water and £10 service charge, with effect from 15 January 2024 is dated 5 December 2023.
3. The tenancy is a periodic tenancy which commenced in 1996. At that time the complex was used by a Christian religious community, this is reflected in the unusual and restrictive terms of the tenancy agreement e.g. "The Tenant must be properly dressed at all times outside of rooms (trousers and full shirt for men ...)"

Inspection

4. The Tribunal inspected the property on 14 March 2024. The flat is situated on the ground floor rear of a building forming part of a complex dating from the late 19th century, set in what were extensive grounds laid out mainly as gardens which have been converted to a large extent into car parking areas, as the main building is now a hotel in great demand for weddings and other celebrations. At the time of our inspection the landlord advised that the hotel was full. The quadrangle had a marquee erected and workmen were setting up equipment for a function. The hotel does not have a dining room therefore all functions take place in the marquee. Wall mounted speakers were visible in the cloisters surrounding the quadrangle.
5. The flat is accessed via the car park/loading area to the rear of the main building. Access to the flat is via a small walled yard overlooking a school playground. There was a small sink in the yard, storage in what was originally a coal store and an external wc.
6. A door from the yard opened directly into the kitchen which had a quarry tiled floor and was fitted with a range of kitchen units and white goods which had been provided by the tenant. The landlord had provided a freestanding hot water cylinder. There was a bedroom and living room where the tenant had provided fitted cupboards. A door from the living room led into a storeroom with a quarry tiled floor and double glazed window. There was evidence of damp on the two external walls. The tenant had boxed in the pipework in the bathroom/wc. There were extensive areas of damp within the flat which was unheated. The original entrance door into the living room had been blocked up, the area behind the stud wall was now the lift lobby for the hotel: the stud did not provide good noise insulation. The windows were double glazed.
7. Externally the property was in fair condition. There was low level concrete render on the external walls which appeared to be in line with the internal damp areas throughout the flat.

8. The flat is some distance from the street entrance to the hotel, the tenant does not have the right for himself or his guests to park within the car park.

Evidence

9. The committee received written representations from both the landlord and the tenant and these were copied to the parties.
10. The landlord stated that the flat was in a convenient location within the grounds of the Pillar Hotel. There was a bus stop outside the hotel, it was a short walk to local shops and within walking distance of Hendon Central tube station.
11. The landlord referred to a valuation of the flat by a local estate agent who had suggested the flat could be marketed at £2,000 - £2,300 per month.
12. A firm of Chartered Surveyors had valued the flat at £2,100 per month. The valuation was based on a number of comparables which were located in either NW4 or NW11, all were said to be smaller than the subject flat, at rents of between £1,950 and £2,100 per month.
13. The tenant stated that he had refurbished the kitchen units, maintained the windows, provided a new drinking water outlet, sanded and varnished the floorboards and provided the blinds and curtains.
14. Further the electrics had not been tested and there was no heating in the flat. The walls in the flat suffered from dampness. Occupation of the flat was limited to himself, overnight guests would be charged. Parking was available at a separate charge.
15. The tenant referred to asking rents in respect of ten flats within Hendon. A two bedroom purpose built flat in Sevington Road with central heating, new bathroom/wc, modern kitchen with appliances was available for £1,800 per month.
16. He referred to eight other flats available at rents ranging from £700 to £1,990 per month.
17. He noted that the landlord's notice included sums for hot water and a service charge. He stated that the flat has its own hot water system for which he pays and the tenancy agreement does not include payment of a service charge.
18. Neither party requested a hearing at which oral representations could be made.

The law

19. In accordance with the terms of section 14 Housing Act 1988 the Tribunal proceeded to determine the rent at which it considered that the subject property might reasonably be expected to be let on the open market by a willing landlord under an assured tenancy.

20. In so doing the Tribunal, 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.

Valuation

21. In coming to its decision, the Tribunal had regard to the evidence supplied by the parties and the members' own general knowledge of market rent levels in the area of Hendon.
22. The Tribunal determined that if the flat were in a traditional situation, and let on the open market on normal terms and conditions, using all the space suitable for habitation it would attain a rent of £370 per week.
23. However, the flat suffers from several distinct disadvantages owing to its location within a hotel complex. Its situation causes significant inconvenience to the tenant in terms of disturbance during social events and festivities. In addition, there is only pedestrian access to the flat via the car park. Many of the comparables have superior facilities for example off street parking and private or communal gardens.
24. The Tribunal considered that the situational disadvantages together with the layout, damp, lack of central heating, dated kitchen, lack of a fridge, floor coverings and curtains or blinds taken with the general condition of the flat and the unusual covenants in the tenancy agreement would result in a deduction from the open market rent and determined the rent at £222 per week.
25. The notice of increase from the landlord included £15 for hot water and £10 service charge. The tenant has his own hot water cylinder therefore the proposed charge for hot water is not payable and the tenancy agreement does not include any provision for payment of a service charge and the tenant does not have the use of any common parts.

The decision

26. The Tribunal concluded that the rent at which the property might reasonably be expected to be let on the open market would be £222 per week, no service charge is payable or included within the rent.
27. This rent will take effect from 15 January 2024 in accordance with the landlord's notice.

Chairman: Evelyn Flint

Dated: 26 March 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;

I. (b) which begins at the beginning of the new 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....

