



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

Case reference : **MAM/LON/OOAU/MNR/2023/0381**

Property : **Ground Floor Flat, 75 Cheverton Road
London N19 3BA**

Applicant : **Alison Nuttall**

Representative : **In Person**

Respondent : **Alexandros Theodotou**

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
Mr Alan Ring**

**Date and venue of
hearing** : **21st March 2024 Hearing with
Inspection**

Date of Decision : **21st March 2024**

DECISION

Decision of the tribunal

The tribunal determines the rent at **£1155 per month**. The rent to have effect from the date of hearing **21st March 2024**

Preliminaries

1. The tribunal was in receipt of an email sent on 20th March by the landlord. The email noted that the landlord had tried to get representation for the hearing but had been unsuccessful. The landlord directed the tribunal to their submissions and made no objection for the hearing to proceed.
2. The tribunal received an application with an attached landlord's Notice to Increase Rent and Tenancy agreement. The Notice was dated 18th June 2023, and proposed a rent to come into effect on 10th July 2023.
3. The landlord's Notice specified the start date of the new rent to be in a period less than one month. Accordingly he tenant and the landlord were advised by letter from the tribunal on 17th July 2023 as follows:-

"The landlord's notice proposing a new rent may be defective, as it appears to be intended to take effect in less than the minimum period applicable to the tenancy which appears to be a period of one month. In practical terms, this means that the proposed new rent may not be payable from the date specified."
4. The landlord subsequently served a revised Notice of Increase of Rent on the tenant. The Notice was dated 24th July 2013 [sic] proposing the rent increase from £850 to £1700.00 per month from 10th September 2023.
5. The landlord also forwarded a copy of the revised notice to the tribunal. On the 31st July 2023 the landlord served on the tribunal the new Notice of Increase. The tribunal informed the landlord that the new Notice could not be appended to the old application. The tenant would need to make a new Application with the new Notice of Increase.
6. Judge Vance on 30th August reviewed the case and decided and directed the following:-
7. "As the Landlord has unequivocally withdrawn the Notice of Increase in Rent dated 18 June 2023, that notice is of no further effect. It cannot be relied upon by the Landlord to seek an increase in rent and no determination is required from the tribunal in respect of the rent sought in that notice.

8. The Landlord now seeks to rely upon a Notice of Increase in Rent dated 24 July 2023, in which he seeks to increase the Tenant's rent from 10 September 2023. The increase sought is in the same amount as stated in the original Notice of increase, rather than require the Tenant to submit a new application to the tribunal I direct as follows:
9. (a) By 1 September 2023 the Tenant, Ms Nuttall, is to write to the tribunal to confirm that she wants to refer the Landlord's Notice of Increase in Rent dated 24 July 2023 to this tribunal for determination as to the rent payable. If she does so, the tribunal will accept that confirmation as a referral for the purposes of s.14 Housing Act 1988. The tribunal has already been provided with a copy of the Notice of Increase in Rent dated 24 July 2023, so this does not need to be provided again. Nor does the Tenant have to provide additional copies of the documents provided with her original application. I also dispense with the requirement for her to provide a new application form (Form Rents 1). The tribunal will instead have regard to the contents of the original application form she provided.
10. (b) Upon receipt of Ms Nuttall's confirmation, the tribunal will issue directions for the determination of the application."
11. The tenant served on the tribunal on 31st August at 16:33 the following e mail:-
12. "Based on the attached document and the below text included in the document. Yes, I want to refer the Landlords' Notice of Increase in Rent dated 24 July 2023 to the tribunal for determination as to the rent payable."
13. With reference to the request to withdraw the initial application the tribunal also wrote:-

"The Tribunal has considered the request together with any representations received and has decided to grant the withdrawal. The scheduled determination is, therefore, cancelled and the new application will be drawn after closing this case."
14. Directions were issued for case number MAM/LON/OOAU/MNR/2023/0381 dated 2nd October 2023.
15. On inspection of the second Notice of Increase of Rent, it is noted it is dated 24th July 2013. The tribunal is satisfied that the Landlord intended this to be 24th July 2023 and that the tenant upon questioning by the tribunal relied on the basis that it was intended to be dated 24th July 2023.

16. The matter before the tribunal is therefore what is the rent to be determined in accordance with section 14 of the Housing Act 1988 for 75 Cheverton Road following the referral of the Notice to Increase rent by the Tenant. The Notice having a proposed date for the new rent of 10th September 2023.

The Substantive Issue – Determination under section 14

Submissions

17. The tribunal has had reference to all the submissions provided by the parties.

Applicant's submissions.

18. The application noted the property comprises a one bedroom, one living room, kitchen and bathroom flat with sole use of outside garden. Currently the living room is let to a sub tenant. The tenant noted they replaced an old broken refrigerator supplied by the landlord. Various copies of invoices showing repairs carried out since 2019.. On one invoice it is noted the cost of the repair is deducted from the rent.
19. The submissions relating to the condition and specification of the property are noted.
20. In relation to rental information the Tenant submitted the following;
21. 75 Cheverton Road, first floor £950.00 for a 2-to-3-bedroom unmodernised, date not known.
22. 69 Cheverton Road, one bedroom garden flat refurbished 2021 and let 2022 for £1400 per month.
23. 69 Cheverton Road, first floor 3-bedroom modernised 2021 rent £1900 per month
24. Additionally, the opinion expressed by the landlord's agent, Winkworth was not considered valid because the agent did not enter the property but appraised by a telephone video call.

Respondent's submissions

25. A letter from Winkworths expressing the opinion the flat has a market rental value of £1850, in November 2023.

26. A letter from the landlord to the tribunal dated 9th November 2023 setting out the background to the property and case.
27. A completed Reply Form.

The Hearing

28. The Tenant attended but the landlord was abroad and unable to attend.

The Inspection

29. Following the hearing the tribunal inspected the property. The flat is within a terrace of Victorian properties of differing styles. The road is itself within an attractive neighbourhood.
30. The flat, a raised ground floor flat, is reached by a few steps, the surface of which have been replaced at some stage. The door to the building opens to a hallway. Off from hallway are two doors, one to the flat upstairs and one to the subject raised ground floor flat.
31. Within the flat immediately to the left is a room. This room is currently used as a bedroom. The original carpet is worn. The room has electrics and central heating. There are shelving within an alcove, the wall behind is damp from the outside porch area and shows mould. The flat is mainly papered in wood chip wallpaper. Next there is a large kitchen diner. This has access to the garden which is within the tenant's demise. The kitchen has units, an oven and extractor. The room is centrally heated. There is damp evident in the base of the party wall with the neighbours. Also, some staining on the internal wall. The electrics are mainly contained in trunking.
32. Next is the bathroom which has been refurbished. There are issues of mould accumulation in the bathroom and issues of water pressure.
33. Within the hallway there was evidence of black mould growth on the party wall. At the end of the internal hallway is a further room, also used as a bedroom. This has evidence of damp and some mould growth. The room looks out over the garden.
34. The property has central heating, double glazing and is spacious for a one-bedroom flat but is overall worn in nature.

There is a basement to the flat which is in the condition as built. It is damp, there is an electric light. Head room is limited, and the space does not provide habitable living accommodation.

The Law

Valuation

35. 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

36. 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.
37. The rent agreed for a 6-month contractual tenancy from the 10th March 2021 was £850 per month. The rent requested by the landlord was £1700 per month with effect from 10th September 2023.
38. The evidence of value provided by the tenant gives a good background, although the tribunal does not know the actual specification or condition of these comparables.
39. The tribunal view is that the property, if in a condition similar to those generally found on the market, would attract a bid of £1650.
40. The property is not in that condition, main areas being evidence of damp, poor carpet, basic electrics, basic decoration in form of wood chip wallpaper. There is however double glazing and central heating.
41. The tribunal makes an adjustment for condition of 30% .
42. Given the size and nature of the accommodation, and the evidence of similar rental properties supplied by the tenant and the landlord, and using its own knowledge of the area, the tribunal determines the rent at **£1155 per month.**
43. **Hardship**
44. The Act provides the tribunal discretion to determine a day after the date within the Notice for the increase to take effect, if the Tenant shows hardship.
45. The tenant noted that they had been unemployed for the last 12 months and had recently been given a job offer. However, the tenant noted that the backdated increase would not be able to be addressed by her savings, given her period of unemployment.

- 46.** The tribunal determines the effective date of the increase is set as the date of the hearing: **21st March 2024.**
- 47.** **The tribunal therefore determines a rent of £1155 per month effective from 21st March 2024.**

Name: Chairman Waterhouse Date: 21st March 2024.

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.

[

(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.