

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

Case Reference : **TR/LON/00BJ/MNR/2024/0003**

Hearing Type : **Video Conferencing**

Property : **40 Dempster Road, London, SW18 1AT**

Tenant : **Mrs J D Meredith**

Representative : **In person**

Landlord : **Mr A H St Pier**

Representative : **In person with written representations provided by
Hurst Warne**

Date of Objection : **18th December 2023**

Type of Application : **Referral in Respect of Market Rent Under Section
13 of the Housing Act 1988**

Tribunal Members : **J. A. Naylor FRICS
Valuer Chairman
C Piarroux JP**

Date of Hearing : **25th March 2024**

Date of Inspection : **25th March 2024**

Date of Full Reasons;25th March 2024

REASONS

REASONS

Background

1. On 31 October 2023 the landlord served a Notice under Section 13(2) of the Housing Act 1988 proposing an increase in the rent of the above property from the passing rent of £400 per week to £800 per week.
2. On 20 November 2023 the tenant made an application to the Tribunal for the determination of a market rent.
3. On 5 January 2024 and again on 17 January 2024, the Tribunal wrote to the parties requesting a copy of a tenancy agreement.

Both parties subsequently confirmed there was no written tenancy agreement

4. The original tenancy was believed to have begun in August 1951.
5. The tenant occupies the property by way of a statutory succession by way of an assured periodic tenancy.
6. By way of a letter dated 2 February 2024, the Tribunal issued directions. These required the landlord to provide details of evidence on which they wished to rely by way of reply by 23 February 2024. The tenant was directed to do the same by 8 March 2024 and the landlord was given until 15 March 2024 for his response thereto.
7. On 2ND February 2024 the Tribunal wrote to the parties confirming details for a hearing date and inspection to take place on 25 March 2024.
8. Written submissions were received from both the landlord and tenant.
9. The tenant advised that she had undertaken improvements to the property installing new carpets and lino in all rooms adding kitchen cupboards and a bath.
10. She maintained she has installed a fireplace in the front room, replaced various water tanks and constructed a front wall in the front garden. The tenants maintain that there is no central heating in the property, there is dampness especially on a number of walls, that there is an antiquated bathroom, mould in the bathroom and no double glazing on the ground floor. She also drew the Tribunal's attention to cracks in walls and ceilings.

11. By contrast Hurst Warne, the managing agents acting on behalf of the landlord, rely on the size of the house and specifically that the property originally would have comprised a five bedroomed house. They maintain that there is central heating and that they have replaced the central heating boiler. They say that in recent times they have replaced the roof, gutters and downpipes, have undertaken extensive repointing, and replaced single glazed windows with double glazing.
12. They confirm that there has been external decoration and that upgrading of the property as detailed above and including the insulation within the roof has taken place. They have upgraded the energy performance rating from an F to a D. They also confirm that there is now an electrical certificate for the property.
13. On the issue of rent, the tenant does not make any specific comments or refer to comparables. On behalf of the landlord, Hurst Warne refer to a number of recent lettings in their correspondence. No letting particulars were provided nor was there any confirmation from any of the parties alleged to have been involved therewith, nevertheless Hurst Warne wrote that they were aware of properties ranging from three to four bedrooms that have let for between £3,225 and £4,000 per calendar month. They therefore state that the subject property is worth £4,000 per calendar month but deduct £500 for the property's lack of modernisation. They value the subject property at £3,500 per month or £307 per week.
14. Photographic evidence provided by the tenant depicts those defects above and in addition, a broken concrete oversite on the side return, a falling fence, panel , deterioration to a step, and poor ceiling plaster.
15. A video hearing was conducted on 25 March 2024. Mrs Jacqueline Meredith represented herself and was accompanied by her son who gave no evidence and made no submissions but assisted Mrs Meredith due to her hearing difficulties.
16. Hurst Warne were due to represent the landlord but at the last minute could not attend and Mr St Pier appeared on his own behalf. During the hearing, Mrs Jacqueline Meredith gave evidence that there was lots of damp within the property. She also stated that there were two gas and two electric meters and that the property had been used as two flats in the past. She confirmed that currently there were two kitchens, one on the ground floor and one on the first floor.
17. Mrs Meredith said that despite the landlord's agents' contentions, the property was not fully double glazed and that some single glazing remained.
18. In addition, Mrs Meredith drew the Tribunal's attention specifically to her written evidence and photographs depicting cracks within the property and loose plaster.

19. When asked specifically about the rental value of the property, she said that she had not really given this much thought but imagined that properties in the area in very good modern condition were worth approximately £1,500 a week.
20. Mrs Meredith said that the rent at 40 Dempster Road should remain at £400 per week and advised that she had offered to increase the rent to £450 per week because the matter was causing her stress.
21. Mr St Pier, the landlord, gave oral evidence that planning restrictions had limited the amount of windows that could be replaced with double glazed alternatives, He said that they had spent money on the property as detailed in the submissions of Hurst Warne and that they had purposefully made the property more energy efficient by increasing its insulation qualities which should in turn have assisted in the reduction of the tenant's bills. Mr St Pier referred to the comparable evidence referred to by Hurst Warne but confirmed that neither he nor they had details such as letting particulars nor did they have any documents providing confirmation of the evidence given.

Hardship

22. On the issue of hardship, Mrs Meredith advised that she was not working but that she got a state pension only and no housing benefit., that her son was out of work and that her husband lived in Wales but did assist with the rent. She confirmed that the property was occupied by her son and two daughters although one was about to move out .
23. Mr St Pier confirmed that he sought a rent increase to be effective from the date specified in the Notice that being 4th December 2023 .
24. In particular he pointed to the fact that the property was actually occupied by four adults, three of which were of working age and one that received a pension.

Inspection

25. The Tribunal attended the property to undertake an inspection at midday on 25 March 2024.
- 26.

It was apparent that the property was originally constructed as a five bedroom semi-detached house with three reception rooms and kitchen, three bedrooms on the first floor with a bathroom and wc and two bedrooms within the attic. One room at first floor level however is currently used as a kitchen/breakfast room

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27. During the inspection, Mrs Meredith was present as were her son and one of her daughters.
28. Neither the landlord nor any representative on his behalf were present.
29. On arrival the Tribunal notified Mrs Meredith that they could be provided with access to all possible areas of the property but that she could not provide any additional evidence nor engage in conversation about the property nor the rental value thereof.
30. All rooms including the cellar were accessible.
31. In ground floor front reception rooms, access was severely limited by the amount of items stored therein.
32. Access was obtained to the basement where damp and standing water was evident.
33. Windows were examined and were found to be partially double glazed with no double glazing to the front elevation or ground floor. A new boiler has been provided but this in turn only serves two radiators, one within the kitchen and the second within the first floor front reception room. The property is not heated from the boiler otherwise and thus is not deemed to have central heating.
34. The kitchen is exceptionally small and exceptionally antiquated as is the bathroom.
35. Throughout the property there is much deterioration with evidence of extensive penetrating damp and blown and falling plaster in a number of areas. The electrical installation does have a modern fuseboard but limited outlets.
36. Externally, the concrete apron is breaking up and a section of fence is falling down. There are a number of cracks throughout the property .
37. The property has been re-roofed and redecorated and some elements of double glazing exist. The electrical installation is deemed to have been partially upgraded.

Valuation

38. Following consideration of the written and photographic submissions given by both parties, the hearing and taking into account the the Tribunal's inspection and using its own knowledge and experience of the rental market in[state area] , the Tribunal finds that the open market rental value of the property, if it was in good condition, would be £4,000 per calendar month.
39. Taking into account the lack of modernisation and the general disrepair, the Tribunal considers it necessary to adjust that open market rental value to reflect specifically the following:
- i) There is no central heating within the property.
 - ii) There is only partial double glazing to the property.
 - iii) There is inadequate electrical installation by modern standards.
 - iv) The kitchen is inadequate by modern standards.
 - v) The bathroom is inadequate by modern standards.
 - vi) There is extensive evidence of penetrating damp and defective plaster throughout the property.
40. Taking these and other more general factors into consideration, the Tribunal is finds that it necessary to make a 40% deduction in the rental value of the property to reflect its condition and lack of modernisation.

Valuation

41.	Open market rent	£4,000 pcm
42.	Deduction for adjustments detailed above 40% =	£1,600 pcm
	Adjusted rent	£2,400 pcm
	Weekly equivalent of rent	£553.85pcm

The Tribunal therefore determines that the market rental value of the property should be set at a figure of £554.00.

Hardship

43. Taking into account the oral submissions by both parties and its inspection of the property, the Tribunal is of the opinion that there are sufficient occupants/contributors to the rent to provide an adequate income and as a result determines that the rent above should take effect from the date stated in the landlord's notice that being 4th December 2023

Chairman: J. A. Naylor FRICS FIRPM

Valuer Chairman

Date: 25th March 2024

ANNEX OF RIGHTS FOR MARKET RENTS

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 might 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 this 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. Any appeal in respect of the Housing Act 1988 should 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).