



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

Case reference : **JM/LON/OOBK/MNR/2023/0345**

Property : **1 Belvedere House, 130 Grosvenor Road, SW1V 3JY**

Applicant : **Monika Cruze**

Representative : **In Person**

Respondent : **Mr Wing Mok**

Representative : **Helpline Ltd**

Type of application : **Market Rent under s13 & 14 of the Housing Act 1988**

Tribunal member(s) : **Mr R Waterhouse MA LLM FRICS
Mr A Ring**

Date and venue of hearing : **21st March 2024**

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

DECISION

Decision of the tribunal

The tribunal determines the rent at **£665.00 per week**. The rent to have effect from the date in the landlord's notice of 11th July 2023, that is an effective date of 12th August 2023.

Background

1. Previously heard on the 9th October 2023, the tribunal set aside its decision of that date on 18th January 2024, following representations from the tenant on 19th and 29th November citing that her submissions had not been placed before the tribunal for inclusion in the hearing.
2. The tribunal inspected the property on the day of the hearing, 21st March 2024.
3. The tribunal received an application under section 13 of the Housing Act 1988, dated 31st July 2023. This included the landlord's notice dated 11th July 2023 proposing a new rent to commence on 12th August 2023. The previous rent being £605 per week and the proposed £800 per week from 12th August 2023. Additionally, a copy of the tenancy agreement dated 11th January 2019 and memorandum of agreement 29th November 2021 which showed the tenancy running from 12th February 2022 to 11th August 2023.
4. Neither the landlord nor the tenant initially requested an inspection. However the tribunal considered that, in view of the need for this re hearing and in the interests of fairness, it was proportionate to carry out one.
5. The property is a ground flat comprising one living room, two bedrooms, two bathrooms, and a kitchen. The flat was let furnished with; a bed frame, table and six chairs, sofa, coffee table, side tables, chest of drawers, bedside units and TV unit.
6. The tenancy commenced on the 12th February 2022 and ran for 18 months concluding on 11th August 2023. The last contractual period day was 11th August 2023, so the statutory periodic tenancy then commenced on the 12th August 2023.

Submissions

7. The tribunal viewed all the submissions of the applicant and the respondent.

Applicant's submissions

8. The tribunal received a document of 16 pages from the applicant tenant which fell into three parts.
9. The first part expressed concern over the identity of the landlord, in terms of the submission that the landlord has or uses different names.
10. The second part contains photographs and narrative supported by photographs that describe the property and issues of disrepair highlighted by the tenant.
11. The second part also notes the financial situation of the tenant and provides as submission that if the rent were to be increased the tribunal would consider the evidence of the tenant in terms of financial hardship, with the request that the tribunal determines a date post the effective date in the landlord's notice.
12. Additionally, a number of properties available on the rental market are suggested as comparable to the subject property.
13. The third part is a resubmission of a submission sent initially to the tribunal on 15th September 2023 comprising 17 pages which were not made available at the last tribunal hearing.
14. In summary the tenant requests the tribunal sets a rent of £600 per week from October 2023 to March 2025.
15. By application form the tenant noted the size of the accommodation.
16. Improvements – none were noted Furniture – bed frame, table and six chairs, sofa, coffee table, side tables, chest of drawers, bedside units and TV unit-Repairs- landlord responsible.

Respondent's submissions

17. A completed Reply Form, undated, was completed by Wing Mok, detailing the size of the rooms, noting that bedroom 1 had an ensuite, bedroom 2 did not but that there was a further bathroom independent of bedrooms.
18. Noted also that the central heating, double glazing, carpets and curtains and white goods were all supplied by the landlord. The Form also noted all the improvements carried out since 2013 including but not limited to renewal of bathrooms. Also, proximity to shops, and infrastructure. Additionally, there were a set of photographs of the interior of the property and a plan.

The Inspection

19. The tribunal inspected the property on 21st March 2024. The flat is situated within a purpose-built block, build by Berkley Homes.
20. The block has a short circular drive on the roadside. Entrance doors to hall with concierge in attendance. The raised ground of the block contains four flats. Flat 1 is on this floor. The front door of the flat opens onto a hallway. The first room off the hallway is a double bedroom with ensuite comprising WC wash hand basin bath and shower. The room outlook is to the roadside front of the building. Each room in the property has double glazing and additional secondary glazing with blinds. Each room has double glazing. The ensuite shower room has some evidence of mould on the ceiling. Off the central hall are two cupboards. The first used as a boot store. The second houses a washing machine. It previously housed a tumble dryer too. This however was faulty, and the landlord moved it to the hallway where it remains. Further off the hall is a family bathroom with WC Wash handbasin and shower. At the end of the hall is a kitchen /diner which is fitted with good quality units. The table and chairs were supplied by the landlord. The living room is good sized there is some evidence of mould growth on the ceiling. A second bedroom smaller than the first without ensuite.
21. The tenancy has a car space included which is housed in the basement. There is no additional service charge for the tenant.

The Determination

22. Submissions included the nature and layout of the property. Neither party proposed rental comparables from which to support their respective cases. The tribunal was required to use its expertise in the rental market.

The Law

23. Considering the issues in turn.
24. The tribunal does not have within its jurisdiction to make a finding on the identity of the landlord or look beyond the named parties on the tenancy agreement and the landlord's notice. Its jurisdiction is limited to determination of the Rent under section 14 of the housing Act 1988. The tribunal is content that the application form and associated notice and tenancy constitutes a valid application for the determination of a section 14 rent.

Valuation

25. 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

26. Given the size and nature of the accommodation, and, using its own knowledge of the area, the tribunal considers the rent for well-appointed flats in the vicinity to be in the region of £800 per week.

27. There is a flat for rent in a neighbouring block The Icon, number 129 Grosvenor Road at £825 per week. This second-floor flat benefits from river views and is not on the first floor and is presented in better condition.

28. The asking rent for this comparable is £825.00 per week

Allowing 10% for river views gives £742.50 per week

Allowing for 10% for raised floor

and not being ground adjacent a road £668.25 per week

Allowing for rounding down to

reflect condition in particular doors jammed £665.00 per week.

Given the size and nature of the accommodation, and, using its own knowledge of the area, the tribunal determines the rent at £665.00 per week effective from the date within the Notice of Increase that is 12th August 2023.

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.

]

(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.

[

(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.

]

(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.