



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

**Case reference** : **GB/LON/OOAC/MNR/2024/0045**

**Property** : **9 Elm Way, London, N11 3NP**

**Applicant Tenants** : **Helen McElveny and Brett McElveny**

**Representative** : **In Person**

**Respondent Landlord** : **Gani Petra**

**Representative** : **In Person**

**Type of application** : **Determination of a Market Rent  
Sections 13 & 14 Housing Act 1988**

**Tribunal member(s)** : **Mr R Waterhouse FRICS  
Mrs E Ratcliff MRICS  
Mr C Piarroux JP**

**Date of determination** : **9 August 2024**

**Date of reasons** : **9 August 2024**

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**REASONS**

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## **Decision of the Tribunal**

On 9 August 2024 the Tribunal determined a Market Rent of **£2050.00 per month** to take effect from **8 February 2024**. It should be noted that the amount determined represents the market rent determined under section 13, the landlord may choose to charge less.

## **Background**

1. By way of an application received by the Tribunal on **16 January 2024** the Applicant tenants of **9 Elm Way, London N11 3NP** (hereinafter referred to as “the property”) referred a Notice of Increase in Rent (“the Notice”) by the Respondent landlord of the property under Section 13 of the Housing Act 1988 (“the Act”) to the Tribunal.
2. The Notice, dated **8 January 2024**, proposed a new rent of **£2450.00 per month to take effect on 8 February 2024** in lieu of a passing rent of **£1950.00 per month**.
3. The property was let to the Tenant by way of an assured shorthold tenancy from 8 April 2017 for 12 months with the contractual period ceasing on the 7 April 2018. Thereafter the tenancy carried on as a statutory monthly periodic tenancy.
4. On **21 May 2024**, the Tribunal issued Directions advising the parties that it considered the matter suitable for determination on the papers unless either party objected, in writing, within 7 days. In accord with current Tribunal policy the parties were advised that no inspection would be undertaken. No objections were received to determination on papers were received. However the Tenant requested an inspection was carried out.
5. The Directions required the Landlord and Tenant to submit their completed statements to the Tribunal by **11 June 2024** and **25 June 2024** respectively, with copies to be sent to the other party. Both parties complied.
6. Having reviewed the submissions, the Tribunal concluded that the matter remained capable of being determined fairly, justly and efficiently on the papers, consistent with the overriding objective of the Tribunal.
7. These reasons address in **summary form** the key issues raised by the parties. They do not recite each point referred to in submissions but concentrate on those issues which, in the Tribunal’s view, are fundamental to the determination.

## **Law**

8. In accordance with the terms of Section 14 of the Act, the Tribunal is required to determine the rent at which it considers the subject property might reasonably be expected to let on the open market, by a willing Landlord, under an assured tenancy, on the same terms as the actual tenancy.

9. In so doing, and in accordance with the Act, the Tribunal ignores any increase in value attributable to tenants' improvements and any decrease in value due to the tenants' failure to comply with any terms of the tenancy.

### **The Property**

10. The Tribunal did inspect the property. The Tribunal found the property to be a terraced house comprising one living/dining room, three bedrooms, one bathroom, and a downstairs WC. The front garden was largely paved with uneven paving. The ground floor kitchen was functional and in repair but dated. The ground floor living room had been extended. There was a ground floor WC which was functional but also dated. In the extended area at the top of the extension wall was a damp area that ran the extension's depth on one side. The first floor contained a bathroom again functional and dated.
11. The garden had plastic grass again uneven in layout. The property was centrally heated and double glazed.

### **Submission – Tenants**

12. The Tenants' submissions, excluding consideration of personal circumstances which are to be disregarded in setting a market rent under the Act, can be summarised as follows.
13. The Tenant returned a completed Reply Form noting the size of the accommodation and its condition. That the property has central heating but no double glazing. The central heating being supplied by the Landlord as with the white goods.
14. In terms of disrepair the key aspects noted were; rotten wooden window frames, damp black mould, water ingress through brickwork, and no fence between neighbours and Tenant's garden.
15. Additional concern expressed over the size of the rent increase in terms of fairness.

### **Submissions- Landlord**

16. The Landlord made a number of submissions. A schedule of property details showing asking rents these ranged from £2200 to £2695 per month. The schedule is dated 4 June 2024.
17. A letter dated 4 July 2024 which identified the landlords view that the roof was leaking because of unauthorized actions of the Tenant. Additionally, several breaches of covenant have been identified, namely painting and plastering. The landlord asserts the property does not have mould nor subsidence, noting that the tenant should keep the property in good condition including well ventilated.

### **Determination**

18. The Tribunal has carefully considered all the submissions before it.

19. The Tribunal determines a market rent for a property by reference to rental values generally and, in particular, to the rental values for comparable properties in the locality. The Tribunal has no regard to the current rent and the period of time which that rent has been charged, nor does it take into account the percentage increase which the proposed rent represents to the passing rent. In addition, the legislation makes it clear that the Tribunal is unable to account for the personal circumstances of either the Landlord or the Tenant.
20. The date at which the Tribunal assesses the rent is the effective date contained within the Landlord's Notice which, in this instance, is the **8 February 2024**. The Tribunal disregards any improvements made by the Tenants but considers the impact on rental value of disrepair, due to the Tenant's failure to comply with the tenancy terms or the Landlord's failure to repair.
21. 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 on the effective date and in the condition that is considered usual for such a market letting.
22. The Landlord relies upon a basket of comparable properties advertised as available to let.
- 23.** The Tribunal weighed the parties' comparable evidence against its own expert knowledge as a specialist Tribunal and having regard to the nature, specification and size of the subject property determined **£2400.00 per month**.
24. The Tribunal is grateful for the submissions on condition by the parties and the benefit of an inspection.
25. Accordingly, the Tribunal finds adjustments are warranted and the rent determined is **£2050.00 per month**.
- 26.** The Tenants made no substantive submissions to the Tribunal about delaying the effective date of the revised rent due to undue hardship under section 14(7) of the Act. Accordingly, the rent of **£2050.00 per month** will take effect from **8 February 2024**.

**Valuer Chair Mr R Waterhouse FRICS Date: 9 August 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).