



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

Case reference : **GB/LON/OOBK/MNR/2024/0156**

Property : **25 Heron Court, 63 Lancaster Gate, London,
W2 3NJ**

Applicant Tenants : **Ms Iwona Ciepadala**

Representative : **In Person**

Respondent Landlord : **Joel Hughes**

Representative : **Derrick & Bridges & Co.**

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**

REASONS

Decision of the Tribunal

On 9 August 2024 the Tribunal determined a Market Rent of **£2250.00 per month** with effect **9 August 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 **11 March 2024** the Applicant Tenant of **25 Heron Court, 63 Lancaster Gate W2 3NJ** (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 **17 January 2024**, proposed a new rent of **£2750.00 per month with effect from 1 April 2024** in lieu of a passing rent of **£1800.00 per month**.
3. The property was let to the Tenant from the 1 October 2018 for 12 months expiring on 31 September 2019 [sic]. A copy of the tenancy agreement was provided.
4. On **4 June 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 on papers. 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 **25 June 2024** and **9 July 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 could be determined fairly, justly and efficiently on the papers, consistent with the Tribunal's overriding objective.
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 property was found to be a fifth floor flat comprising one bedroom, one open plan living room with an integral kitchen. The property has extensive windows facing the road. The windows are single glazed metal framed contemporary with the block which is around 1960. The windows have gaps and so draughts, and rain may enter.
11. The flat suffers from several historic and potentially ongoing leaks from the above. These are present in the ceiling of the living room and the bathroom. The kitchen drain also leaks. The floor is parquet in places and tiled in others.

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. From the Application Form, the Tenant set out their responsibilities with reference to their tenancy agreement.
14. The Tenant returned a completed Reply Form noting the property has curtains and carpets supplied by the tenant, and white goods supplied by the landlord. There is no double glazing but there is central heating.
15. Attached to the Reply Form was a letter that outlined that noise from the street and hotel is very disruptive.
16. Additional information was provided relating to properties the Tenant had recourse to in considering the rent. These ranged in price between £1950 per month to £2167 per month.
17. The submission noted the disrepair of the property and proposed a revised rent of £2,300 per month. The Tenant also included photographs of the properties they consider comparable with the subject property.
18. The Tenant raised concern over undue hardship.

Submissions- Landlord

19. The Landlord made a number of submissions; an annotated version of the tenants comparable list with the landlords' comments in red relating to size and rents achieved.
20. Also, a lettings appraisal from an agent, Winkworths, suggesting £2383.33 to £2491.67 per month on a letter dated 30 January 2024, and sales details of the property from Knight Frank.

21. Further a number of properties the Landlord considered comparable were also included these ranged from £2578 per month to £3358 per month.
22. A completed Reply Form was submitted by the Landlord, noting the property was redecorated in December 2018 and a new boiler fitted in March 2019.

Determination

23. The Tribunal has carefully considered all the submissions before it.
24. The Tribunal determines a market rent for a property by reference to rental values generally and to the rental values for comparable properties in the locality. The Tribunal has no regard to the current rent and the period for which it has been charged, nor does it consider 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.
25. 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 **1 April 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.
26. 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.
27. The Landlord and Tenant have relied on a basket of comparable properties advertised as available to let.
28. 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 **£2500.00 per month**.
29. The property, however, has some disrepair and so an adjustment is made to reflect this, after the adjustment the rent was **£2250.00**.
30. The Tenants made submissions to the Tribunal about delaying the effective date of the revised rent due to undue hardship under section 14(7) of the Act. From the evidence, the Tribunal determines the effect date is that of the date of decision with is **9 August 2024**.
31. Accordingly, the rent of **£2250.00 per month** will take effect from **9 August 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).