



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

**Case reference** : **GB/LON/00AH/MNR/2024/0078**

**Property** : **11 Menlo Gardens, London, SE19 3DT**

**Tenant** : **Mr Graham Brown**

**Representative** : **Citizens Advice Croydon – Brian Walsh**

**Landlord** : **Toucan Homes Limited**

**Representative** : **None**

**Date of application** : **18 March 2024**

**Type of application** : **Application for determination of market rent following a Notice of Increase served pursuant to Section 13 of the Housing Act 1988.**

**Tribunal member(s)** : **Mr O Dowty MRICS  
Mr C Piarroux**

**Venue** : **10 Alfred Place, London, WC1E 7LR**

**Date of decision** : **5 July 2024**

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**REASONS FOR DECISION**

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## **Background**

1. The tenant lives in the property under a weekly, statutory periodic assured tenancy. The landlord served on the tenant a Notice of Increase, dated 8 March 2024, proposing to increase the rent at the property from £264.66 per week to £374.73 per week with effect from 12 April 2024.
2. On 26 March 2024 the Tribunal received an application from the tenant, dated 18 March 2024, referring the landlord's Notice of Increase to the tribunal, challenging the increase and seeking a determination of the market rent.
3. The Tribunal issued Directions on 23 April 2024, which invited the parties to provide a reply form and make any other submissions they wished to make. The tenant provided a reply form and accompanying further submissions. The landlord provided neither a reply form nor any other submissions.
4. The tenant indicated, in their reply form, that they wished the Tribunal to inspect the property, but did not require a hearing. The Tribunal therefore arranged for an inspection of the property, to be followed by a determination on the basis of the papers provided.
5. The Tribunal inspected the property on 5 July 2024, in the presence of the tenant, Mr Brown, and his local councillor Ms Patsy Cummings – who was supporting the tenant.

## **The Inspection**

6. The subject property is a studio flat located within a larger, purpose-built ex local authority block located on Menlo Gardens, off Beulah Hill in the Crystal Palace & Upper Norwood ward of the London Borough of Croydon.
7. The subject property offers a studio room with a kitchen area (which is not physically separated), a small entrance area and a bathroom. It is generally in a fair condition, with several minor cracks in the plasterwork and other items of disrepair.
8. The property has UPVC double glazing, however the units were poorly installed with gaps in the UPVC frames and missing window fastenings, which have caused drafts at the property. The property has no central heating - and whilst the tenant, in all fairness to the landlord, informed the Tribunal he had been advised there was underfloor heating, that clearly isn't the case. The reason the Tribunal can be so sure about that is that the floor in the kitchen area is not covered at all. Instead, it is exposed to the structural concrete plank of the building (at one point the tenant had installed laminate flooring,

but it was allegedly damaged by the landlord's workmen and never replaced).

9. The kitchen itself is modern, but basic - though this is to be expected in a studio flat like the subject. What is not to be expected, however, is the poor installation of that kitchen - the tenant demonstrating that there are gaps between the tiled 'splashguard' and the wall behind it, that the extractor hood is poorly installed and that the electric hob is not sealed to the counter and can instead be simply lifted out of it - amongst other issues. The tenant provided a washing machine and a fridge by way of white goods.
10. The bathroom is also quite basic, though again this is not unusual for studio flats in the market. The bathroom does not have an outside window, and the extractor fan is blocked – meaning there is no way of ventilating the room other than the internal bathroom door. In addition, there is a recurring leak from the overflow valve into the bath.

### **The law**

11. The way in which the Tribunal is to determine a market rent in this circumstance is set out in Section 14 of the Housing Act 1988. That section is too lengthy to quote in entirety in these reasons. In brief, the tribunal is to determine the rent at which the property might reasonably be expected to let in the open market by a willing landlord under an assured tenancy, subject to disregards in relation to the nature of the tenancy (i.e. it being granted to a “sitting tenant”) and any increase or reduction in the value due to the tenant’s carrying out improvements which they were not obliged to carry out by the lease or their failure to comply with the terms of the tenancy.

### **Valuation**

12. The only evidence of value provided to the Tribunal was in the form of asking rents from the tenant’s representative following a search on Zoopla. Asking rents do not offer particularly strong evidence of value, indicating merely general market sentiment of which the Tribunal is already well-aware in its expert capacity. In any case, none of the asking rents provided appeared to the Tribunal to be for comparable properties to the subject property – and the tenant’s representative did not seek to speak to the comparability in particular of any of them. All of the asking rents provided were for properties located some distance away from the subject property (the closest 2 being in central Crystal Palace and the others being further still), and none of them was for a studio flat located in a similar building nearby to the subject.
13. The Tribunal therefore considered the value of the property in light of its own expert knowledge of rental values in the area in conjunction with the submissions of the tenant.
14. The Tribunal considered that, if let in the market in a good condition, the property might be expected to fetch a rent in the region of £275-

£300 per week (approximately £1,200 to £1,300 per month) at the proposed date of increase. Usually, the Tribunal would then make a subjective judgement as to both a precise figure in that range to use as a 'hypothetical' starting point, and also as to the quantum of the deduction(s) to make to account for the fact the property is not in a good condition. However, in this case the Tribunal is assisted further by the rent currently passing of £264.66 per week.

15. The rental value of any asset is ultimately a reflection, subject to definitions and other caveats, of what a willing lessor might be paid in rent for it by a willing lessee. In this case, the tenant has occupied the property for a number of years, apparently willingly, presently paying a rent of £264.66 per week and has made no submissions to the Tribunal that the existing rent is excessive. Accordingly, this is strong, non-subjective evidence that the market rent of the property is not below the rent currently passing.
16. That being said, the Tribunal does not believe, in its present condition, that the property might be worth more than the rent passing either. Even were the Tribunal to adopt a hypothetical starting point of £300 per week (the highest value in what the Tribunal would consider a reasonable range), £264.66 per week would represent an 11.8% deduction to account for the condition of the property. Given the condition of the property, the Tribunal considers that a subjective deduction of 11.8% to account for the condition of the property would not be excessive, especially given it lacks central heating.
17. Accordingly, it appeared to the Tribunal that the existing rent passing sat at the top end of a reasonable range of market rental values for the property. The Tribunal therefore determines that the market rent of the property, as at the proposed date of increase, is £264.66 per week.
18. The Tribunal notes for completeness that the tenant referred to “concerns” they had regarding the electrics at the property, and that they had not received an electrical safety certificate. Whilst the tenant sought to demonstrate certain things to the Tribunal on inspection in this regard, such as wiring in strange places and a reading from some form of detector where a socket had apparently once been, they were not particularised in the tenant’s evidence (the purpose of the Tribunal’s inspection being to see the property with its own eyes rather than taking further evidence). In any case the Tribunal clearly does not possess the expert electrical skills required to determine whether an electrical installation is safe or not without even any detailed investigations. That is instead a matter of evidence, and beyond the tenant’s own representations on the topic the Tribunal was not provided with any.

### **Effective Date**

19. As set out in Section 14(7) of the Housing Act 1988, the effective date of a Tribunal determination under that section is the rent increase date

that was provided in the landlord's Notice of Increase – unless it appears to the Tribunal that this would cause the tenant undue hardship. In those circumstances, the Tribunal may adopt a later effective date for its determination, being not later than the date on which the determination is made.

20. The tenant did make representations as to hardship, however they are not relevant in this instance as the Tribunal has determined that the market rent at the proposed rental increase date is the same as the rent passing before that date. There is therefore no increase to be backdated – and the tenant will not experience hardship as a result.

## **Decision**

21. Pursuant to the considerations above, the Tribunal determined a rent of £264.66 per week in this matter, such rent to take effect from 12 April 2024.

Valuer Chairman: Mr Oliver Dowty MRICS

Dated: 12 August 2024

## **ANNEX - 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 should be made on Form RP PTA available at <https://www.gov.uk/government/publications/form-rp-pta-application-for-permission-to-appeal-a-decision-to-the-upper-tribunal-lands-chamber>

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. **Please note that if you are seeking permission to appeal against a decision made by the Tribunal under the Rent Act 1977, the Housing Act 1988 or the Local Government and Housing Act 1989, this can only 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).