



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

Case reference : **CAM/OOKA/MNR/2024/0036**

HMCTS code : **P:PAPERREMOTE**

Property : **30 Tenby Drive, Luton,
Bedfordshire, LU4 9BL**

Applicant (Tenant) : **A F Khan**

Respondent (Landlord) : **F Webb**

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

Tribunal members : **Mr P Roberts FRICS CEnv**

Date of Determination : **17 May 2024**

This has been a remote determination on the papers which the parties are taken to have consented to, as explained below. The form of determination was a paper determination described above as **P:PAPERREMOTE**. The documents that the Tribunal was referred to are in bundles from the Applicant and the Respondent. The Tribunal has noted the contents and the decision is below.

Decision

The Tribunal determined a market rent of £1,500 per month effective from 17 May 2024.

Reasons

Background

1. The Landlord served a notice dated 15 February 2024 pursuant to section 13 (2) of the Housing Act 1988 which stated an increase in the passing rent from £1,272 per month to £1,500 per month with effect from 23 March 2024.
2. This rent is stated to be exclusive of Council Tax, Water Charges, and fixed service charges.
3. The Tenant made an application which was received by the Tribunal on 16 February 2024 in reliance on section 13 (4) of the Housing Act 1988.
4. The Tribunal issued directions on 19 February 2024 inviting the Parties to submit any further representations (including any photographs and details of rentals for similar properties) they wished the Tribunal to consider.

The Property

5. The Tribunal has relied upon the Parties' representations and Google Images.
6. The Property comprises a mid-terraced three storey house of brick and tile construction providing lounge, kitchen, three double bedrooms, WC and one single bedroom together with a rear garden.

The Tenancy

7. The Tenant took occupation pursuant to an Assured Shorthold Tenancy dated 23 November 2021 commencing the same date for a term of 12 months at an initial rent of £1,150 per month.
8. Clause 5.4 of the Tenancy requires the Tenant "*To keep the interior of the Property and Contents in at least as good and clean condition and repair as they were at the commencement of the tenancy, with fair wear and tear accepted, and to keep the Property reasonably aired and warmed.*"
9. As set out at clause 15 (4) of the Tenancy, the Landlord is subject to the provisions of section 11 of the Landlord and Tenant Act 1985 which is set out at paragraph 14 below.

The Law

10. Section 5 (3) of the Act provides that the periodic tenancy arising on expiry of the Assured Shorthold Tenancy is one:

“(a) taking effect in possession immediately on the coming to an end of the fixed term tenancy;

(b) deemed to have been granted by the person who was the landlord under the fixed term tenancy immediately before it came to an end to the person who was then the tenant under that tenancy;

(c) under which the premises which are let are the same dwelling-house as was let under the fixed term tenancy;

(d) under which the periods of the tenancy are the same as those for which rent was last payable under the fixed term tenancy; and

(e) under which, subject to the following provisions of this Part of this Act, the other terms are the same as those of the fixed term tenancy immediately before it came to an end, except that any term which makes provision for determination by the landlord or the tenant shall not have effect while the tenancy remains an assured tenancy”

11. Section 14 of the 1988 Act provides that the Tribunal is required 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:

- *“having the same periods as those of the tenancy to which the notice relates;*
- *which begins at the beginning of the new period specified in the notice;*
- *the terms of which (other than relating to the amount of rent) are the same as those of the existing tenancy.”*

12. Section 14 (2) of the 1988 Act requires the Tribunal to disregard:

- *“Any effect on the rent attributable to the granting of a tenancy to a sitting tenant;*
- *Any increase in the value of the dwelling-house attributable to a relevant improvement (as defined by section 14 (3) of the Act) otherwise than as an obligation;*
- *Any reduction in the value of the dwelling-house attributable to a failure by the tenant to comply with any terms of the tenancy.”*

13. Examples of a tenant’s failure to comply with the terms of the lease may include, for example, a lack of redecoration.

14. Section 11 of the Landlord and Tenant Act 1985 (the 1985 Act), provides that the Tribunal is to imply a covenant by the Landlord:
- a. *“to keep in repair the structure and exterior of the dwelling-house (including drains, gutters and external pipes),*
 - b. *to keep in repair and proper working order the installations in the dwelling-house for the supply of water, gas and electricity and for sanitation (including basins, sinks, baths and sanitary conveniences, but not other fixtures, fittings and appliances for making use of the supply of water, gas or electricity), and*
 - c. *to keep in repair and proper working order the installations in the dwelling-house for space heating and heating water.”*
15. Section 14 (7) of the 1988 Act states:

“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, with effect from such later date (not being later than the date the rent is determined) as the appropriate tribunal may direct.”

Representations – The Tenant

16. The Tenant provided a schedule of photographs highlighting various issues with the Property.
17. In addition, the Tenant set out various comments on the Reply Form including matters of financial hardship.

Representations – The Landlord

18. The Landlord referred to an increase in rent being required to cover additional mortgage payments and commented that similar 3 bed properties are letting in the region of £1,500 to £1,600 per month.
19. No transactional evidence was provided in support of this assertion.

Determination

20. In determining the market rent in respect of the Property, the Tribunal has regard to prevailing levels of rent in the general locality and achieved rental values in respect of other properties of comparable accommodation and provision that would be likely to be considered by a prospective tenant. The current rent and the period that has passed since that rent was agreed or determined is not relevant.

21. The legislation requires the Tribunal to have regard to market demand assuming that the landlord is willing. The Tribunal is therefore unable to have any regard to the personal circumstances or identities of the actual landlord and tenant in assessing the level of rent. Similarly, the Tribunal is also unable to take into account the Tenant's ability to pay the rent in assessing the amount to be paid or the Landlord's need to achieve a certain income in order to, for example, cover their mortgage payments.
22. In addition, historic matters between the actual landlord and tenant are not relevant to the rent likely to be offered by a prospective tenant. The Tribunal can therefore only have regard to the Property as it exists on the relevant date of the proposed rent review having regard to the statutory assumptions.
23. As set out above, section 14 of the 1988 Act requires the Tribunal to determine the rent at which the Property might reasonably be expected to let with effect from the date specified for commencement of the new rent as set out in the section 13(2) Notice.
24. In this regard, the Tribunal considers that the Property is not in a state of repair and decoration commensurate with market expectations. It is tired and worn and the fixtures and fittings, including the carpets, are worn.
25. However, the Property is not in such a state that it would not be capable of attracting a Tenant prepared to compromise on such matters.
26. The Tribunal therefore directs that the rent shall be increased from £1,275 per month to the lower of **£1,500 per month** or such other rent as the Landlord may decide.
27. The Tribunal considers that the provisions of section 14 (7) of the Act, as set out at paragraph 15 above such that the increase from the current **rent of £1,275 per month to the new rent shall be effective from the date of this Determination and not earlier (i.e., 17 May 2024).**

Name: Peter Roberts FRICS CEnv

Date: 17 May 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 either party is dissatisfied with this decision, they may apply for permission to appeal to the Upper Tribunal (Lands Chamber) on any point of law arising from this Decision.

Prior to making such an appeal, an application must be made, in writing, to this Tribunal for permission to appeal. Any such application must be made within 28 days of the issue of this decision to the person making the application (regulation 52 (2) of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rule 2013).

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).