



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

**Case reference** : **CAM/00MD/MNR/2024/0072**

**HMCTS code** : **V:CVPREMOTE**

**Property** : **104 Scholars Walk, Langley,  
Slough, SL3 8LZ**

**Applicant (Tenant)** : **Manoj Gajavelli and Rama  
Duarvasa**

**Respondent (Landlord)** : **P Chaggar C/O Focus Residential**

**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** : **5 August 2024**

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**DECISION**

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The Hearing was held by means of CVP video conferencing. 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 £1,200 per calendar month effective from 7 April 2024.**

## **Reasons**

### **Background**

1. On 9 February 2024 the Landlord served notice under section 13 (2) of the Housing Act 1988 to increase the passing rent from £1,050 per calendar month (pcm) to £1,400 with effect from 7 April 2024.
2. This rent is stated to be exclusive of Council Tax, Water Charges and fixed service charges.
3. The Tenant made an application dated 1 April 2024 to the Tribunal in reliance on section 13 (4) of the Housing Act 1988.
4. The Tribunal issued directions on 12 April 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 inspected the Property on 3 June 2023 accompanied by the Tenant.
6. The Landlord did not attend the inspection.
7. The Property comprises a ground floor flat within a purpose-built apartment block constructed circa 2000. The accommodation comprises a living room, kitchen, bathroom and two bedrooms. There is gated communal car parking but limited outside garden space.
8. There is electric panel heating throughout the property supplemented by two storage heaters and the Property is fitted commensurate with its age. The Property also benefits from double glazing.

### **The Tenancy**

9. The Tenant occupied the Property by virtue of an Assured Shorthold Tenancy that commenced 7 September 2012 and expired on 6 March 2013.
10. The initial rent under this Tenancy was £850 pcm.
11. The Property is defined as:

*“The dwellinghouse known as 104 Scholars Walk, Langley, Berks.”*

12. The Tenant's repair obligations are set out at clause 3.5 which states:  
*"To keep the interior of the Property and the Contents in good and clean condition and complete repair (reasonable wear and tear excepted) and to keep the Property at all times well and sufficiently aired and warmed during the tenancy to avoid mould and condensation."*
13. The Landlord covenants at clause 6 to:  
*"...carry out any repairing obligations as required by section 11 of the Landlord and Tenant Act 1985."*
14. In the absence of a new Tenancy being entered into, an Assured Periodic Tenancy pursuant to Section 5 (2) of the Housing Act 1988 (the 1988 Act) has arisen such that Sections 13 and 14 of the Act now apply.

### **The Law**

15. 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"*
16. 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:
  - a. *"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 rent) are the same as those of the existing tenancy.*
- 17. Section 14 (2) of the 1988 Act requires the Tribunal to disregard:
  - 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 (as defined by section 14 (3) of the Act) otherwise than as an obligation;*
  - 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.”*
- 18. Examples of a tenant’s failure to comply with the terms of the lease may include, for example, a lack of redecoration.
- 19. 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.”*
- 20. 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**

- 21. The Tenant provided the Tribunal with a five-page summary of 54 issues concerning outstanding matters including disrepair.

22. In addition, the Tribunal was provided with copies of an Improvement Notice dated 24 November 2023 and a Notice of Variation to that Notice dated 5 December 2023.
23. No evidence was provided in respect of rental values.
24. The Tenant attended the Hearing and further explained the points raised in their written representations.

### **Representations – The Landlord**

25. The Landlord advised as follows:

*“I feel strongly that this [i.e., the Tenant’s] response doesn’t paint a very accurate picture of the property that he lives in.*

*I have attached pictures from the last visit made to record some of the issues that had been raised at the time.*

*The tenant and his family have lived happily in this apartment for nearly 12 years. They were made aware a couple of years ago that the landlord wished to sell the property and so far three section 21 notices requiring possession have been served since 2022. It is my belief that the tenant contacts the council each time to request an improvement notice be served in order to invalidate the possession request...*

*...He constantly requests that improvements are made but without increasing the rent the landlord is unable to make them.”*

26. The Landlord also provided a summary of rents at 17 Scholars Walk, 12 Hurworth Avenue, 18 Hermitage Close and 8 Ashwood Place.

### **Determination**

27. In determining the market rent, 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.
28. 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.
29. However, as set out above, the Tribunal is required to have regard to the obligations of the Landlord and Tenant in respect of the repair, maintenance and upkeep of the Property.
30. The Tenants’ repair obligations are set out at clause 3.5 of the Lease which, as previously mentioned, requires the Tenant to:

*“...keep the interior of the Property and the Contents in good and clean condition and complete repair (reasonable wear and tear excepted) and to keep the Property at all times well and sufficiently aired and warmed during the tenancy to avoid mould caused by condensation.”*

31. As set out above, section 14 (2) (c) of the 1988 Act requires the Tribunal to disregard any failure by the Tenant to comply with their lease obligations. However, the Tribunal is to have regard to matters that are not a result of the Tenants' failure to comply.
32. In this regard, disrepair that comprises wear and tear is specifically excluded from the Tenant's obligations. The Tribunal therefore assumes that the Property has been kept in repair but takes account of “*reasonable wear and tear*” the rectification of which would fall to the Landlord rather than the Tenant.
33. It is therefore necessary to distinguish between items of disrepair that have arisen through the Tenant failing to comply with the Lease and matters that fall to the Landlord.
34. It is clear that the Property requires significant work that does not fall to the Tenant pursuant to the Lease provisions. This work has therefore been taken into account by the Tribunal in assessing the rent.
35. These are largely the same issues that the Tribunal has identified previously but it is apparent that there has been inaction on the part of the Landlord and the Property has continued to deteriorate. Such work that has been carried out is of poor quality, short term and cosmetic.
36. In this regard, the Tribunal is concerned to note that the Landlord, despite engaging the services of Focus Residential, is under the misapprehension that compliance with his obligations to the Tenant is contingent upon the Tenant paying an increased rent.
37. For clarity, the Landlord is required to comply with their obligations irrespective as to the level of rent payable and it is irrelevant whether or not the Landlord considers that the rent payable is sufficient to fund their statutory and contractual obligations. A lack of funding is not a defence that can be relied upon by the Landlord to excuse inaction.
38. Whilst the Tribunal has noted the pictures provided by the Tenant it had the opportunity to inspect the Property and has based its deliberations on what was observed during that inspection. In this regard, it is clear that the Property falls well below market expectations of repair and decoration. This disrepair and lack of decoration directly impacts upon the rent that an incoming tenant would be prepared to offer.
39. In this regard, if the Property was in full repair and decoration throughout, the Landlord's expectation of attracting a rent in the region of £1,400 per month, based on the evidence provided by the Landlord, would not be unreasonable. However, in the absence of any evidence to

suggest that the properties referred to by the Landlord are in a similar state of disrepair and decoration as the Property, a discount is warranted.

40. The Tribunal therefore determines the market rental of the Property to be **£1,200 pcm**. The rent payable may not, therefore, exceed this figure. However, this does not prevent the Landlord from charging a lower figure.
41. This rent is to be effective from **7 April 2024**.

**Name:** Peter Roberts FRICS CEnv

**Date:** 5 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).