



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

Case reference : **LON/OOAY/MNR/2024/0281**

Property : **Flat 3 80 Upper Tulse Hill,
London SW2 2RP**

Applicant : **Mr Kypros Loizou**

Representative : **None**

Respondent : **Mr E Willis of Willis Estates**

Representative : **None**

Type of application : **Section 13(4) Housing Act 1988**

Tribunal members : **Mr D Jagger MRICS
Mr C Piarroux JP**

**Date of
determination and
venue** : **1 November 2024
10 Alfred Place, London, WC1E 7LR**

Date of Reasons : **14 November 2024**

DECISION

The Tribunal determines that the rent that the property in its current condition as at the 1 July 2024 might reasonably be expected to let in the open market under an assured periodic tenancy is **£222 per calendar week**.

REASONS

Background

1. The Tribunal issued summary reasons on the 1 November 2024 following determination of this application. Either party may request full reasons. These full reasons are provided following a written request from the Landlord, Mr Edward Willis, dated 8 November 2024.
2. The Tenant has lived in the property since 1996 and the Tribunal were provided with a copy of extracts from a fixed-term agreement which commenced on the 17 August 1996 and on the 16 August 1997 the fixed term tenancy ceased, and the Tenant continued to occupy the property under a statutory periodic tenancy.
3. On the 19 April 2024, the Landlord served a notice pursuant to section 13(2) of the Housing Act 1988 seeking to increase the rent from **£208.00** per calendar week to **£299.00** per week being an increase of **£91.00** effective from **25 May 2024**.
4. By an application dated 25 July 2024, the tenant referred that Notice to the Tribunal for determination of the market rent.
5. Directions, dated 13 August 2024, required the Landlord to complete a reply form by 3 September 2024 and the Tenant to do similar by 16 September 2024. The Landlord could then respond to the points raised by the Tenant by 24 September 2024. Both the Landlord and Tenant complied, with the Tenant requesting a hearing and inspection to determine this matter. A hearing, followed by an inspection, was held on 1 November 2024.
6. These reasons address 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.

Evidence

7. The Tribunal has before it a bundle of evidence, which includes a background to the case, the Directions, written statements, comparable evidence photographs and floor plans of the subject property and other flats in the building. Each of the parties made comprehensive submissions both in writing and orally at the hearing.

Hearing

8. A hearing was held on the 1 November 2024. The Landlord and the Tenant attended the hearing together with the Tenant's good friend Mr McMorro

The Tenant's case

9. The Tenant stated that when he commenced occupation in 1996 the property was in a very poor state of repair with one cupboard and an old fashion sink in the kitchen. There was a “tin shower and a high flush WC in the bathroom. Over the years with the assistance of Mr McMoro, he has undertaken a series of improvements. Therefore, what you see is the Tenants complete refurbishment of the flat including decoration, all floor coverings, kitchen and shower room fittings. He confirmed the Landlord has not undertaken any repairs whatsoever and the property has been subject to extensive water leaks from the flat above.
10. It is for these reasons, he is of the opinion there should be no increase in the rent previously set by the Tribunal in a decision dated 14 September 2021, which was back dated from the 26 December 2019, being the date given in the previous notice.

The Landlord's case

11. In the first instance, the Landlord accepted the previous Tribunal's decision in connection with an aggregate deduction of 35%. In his evidence, the Landlord relied on three strands of valuation methodology. The first was the Local Housing Allowance taken from the Valuation Office Agency website. Mr Willis explained that because this related to an intermediate market rent. He confirmed this was a “back-up” method of valuation to confirm the evidence of lettings within the subject property which he described as “the best comparable”
12. He produced evidence of flats. Flats 4 and 5 are studio flats on the second floor, which are smaller and let at £276 and £219 per week respectively. The two properties are located on the ground and lower ground floors. These are larger two bedroom flats and have let at £288 and £461 per week. Mr Willis then analysed these rental figures by breaking them down to a pound per square foot. Then, he took an average of the £PSF and applied it to the subject property and deducted this figure by 35% which produced the proposed rental figure of £299 per week.
13. Thirdly, Mr Willis produced evidence of 6 comparable recent lettings for one-bedroom flats in the area which ranged from £1,495 pm - £2,350 pm. The comparable refers to it being a one bedroom flat, but in fact, the description confirms this property has two good sized bedrooms, Therefore, the evidence must be discounted and the range is £1,495 pm-£1,725 pm.
14. Following the hearing, the Tribunal arrived at the property on the 1 November 2024 at around 12.30pm in the presence of the parties and

Mr McMorro. Following the inspection of the subject property, the Tribunal inspected flat 2 with the Landlord with the acceptance of the Tenant. This flat was vacant and we will refer to this property later in this decision.

Evidence

15. The Tribunal has consideration of the verbal and written submissions provided by the landlord and tenant which included photographs and floor plans. Together with comparable evidence from the landlord.

Property

16. The property is a converted first floor flat which forms part of a four-storey mid terrace Victorian building located in a road of similar properties close to local amenities. The building has brick and rendered elevations under a pitched and slate roof. There are softwood single glazed sash windows.
17. On inspection, the Tribunal found that there is one bedroom, living room, kitchen and shower room with WC. There is no fixed heating system. The floor area is approximately 358 f2 which is traditionally the size of a studio flat. The common parts are poorly maintained, being in need of redecoration and a large boarded window awaiting replacement following an insurance claim.
18. On inspection, the Tribunal found that the property was in need of refurbishment. There were areas of damaged plaster via previous leaks from the flat above. The window units are suffering from significant rot infestation and are badly fitting allowing ingress of damp. The electrical system is extremely dated and requires upgrading. The kitchen fittings were old and generally in poor condition, as were the sanitary fittings.

The Law

19. The law governing a determination is set out in section 14 of the Housing Act 1988 ('the 1988 Act'). In particular, the Tribunal is to determine the rent at which the property might reasonably be expected to be 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 improvements or failure to comply with the terms of the tenancy.
20. In the absence of any evidence to the contrary, and as set out on pages 2, 3 and 4 of the previous tenancy agreement, the Tribunal has proceeded

on the basis that the landlord is responsible for repairs to the structure, exterior and any installations pursuant to section 11 of the Landlord and Tenant Act 1985 and the tenant for interior decoration.

The Valuation

21. The Tribunal commends Mr Willis for the level of evidence he has produced. In the first instance, the Tribunal can place little weight on the Local Housing Allowance taken from the Valuation Office website. This is data led and has little bearing on actual open market transactions for rental values in the area.
22. Next, taking the evidence of the lettings within the property, the Tribunal is of the opinion this is flawed for several reasons. Firstly, the evidence refers to two bedroom and studio flats. Whereby the subject property is a one-bedroom flat. The method of pound per square foot analysis is not an accepted valuation methodology for rental valuation and this results in anomalies in the final figure. Lastly, flat 2 is currently vacant and for sale. Upon looking at the sales agents' details the floor plan confirms this property has a floor area of 588 f2. This is therefore 61% larger than the subject property. A fact, that was not related to the Tribunal. It is for these reasons the Tribunal can place limited weight on this evidence.
23. Finally, Mr Willis produced evidence of five recent lettings of one bedroom flats in the area which range from £1,495 pm- £1,725 pm. Upon reading through the details of each, it is apparent each of the flats has a modern specification with central heating and double glazed windows. The Tribunal preferred this evidence as the best available comparables.
24. Having consideration of our own expert knowledge of rental values in the Tulse Hill area, together with the parties' submissions. The Tribunal considers that an achievable rent for a similar one-bedroomed property in a good marketable condition with reasonably modern kitchen and bathroom fittings, modern services with carpets curtains and white goods provided by the Landlord would be **£370** per week. (£1,600 per month)
25. The Tribunal now needs to adjust this rent to allow for the poor internal condition of the property, the significant Tenant improvements, no central heating, rot infested sash windows, poor condition of common parts, small floor area. (358f2) and dated electrical system. Using its own

expertise upon the inspection, the Tribunal considers that a deduction of 40% should be applied. This equates to **£148** and reduces the rental figure to **£222** per week. The Tribunal is aware that a previous decision made an aggregate deduction of 35%. In the first instance, this Tribunal is not restricted to follow previous decisions. Otherwise, the advantage, of this Tribunal, compared to the previous was that an inspection was undertaken to fully consider the condition of the property.

Decision

26. The Tribunal therefore determines that the rent at which the subject property might reasonably be expected to be let in the open market by a willing Landlord under an assured tenancy in its current condition is **£222** per calendar week.

The Effective Date

27. Following questions from the Tribunal the Tenant made an application to the Tribunal under s14(7) of the 1988 Act. This provision allows the Tribunal to defer the date of increase to the date of determination if it appeared to the Tribunal that it would cause undue hardship to the tenant. The Tenant confirmed his only form of income is his state pension which he relies on to pay for the rent and all other outgoings. In addition, he stated that he required a considerable loan from his friend Mr McMorro to pay for the previous rent increase. In reply, the Landlord stated that state housing benefit was available.
28. The Tribunal has considered this request and on the balance of the evidence provided concludes that there is sufficient substantiation to show such undue hardship.
29. The Tribunal directs the new rent of **£222 per calendar week** to take effect on the **1 November 2024**. This, being the date of the Tribunal's decision.

Chairman: Duncan Jagger MRICS

Date: 14 November 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).