



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

**Case Reference** : **LON/00AR/MNR/2023/0424**

**Property** : **Apartment 4, Stirling House, 21-25 Station Lane, Hornchurch, RM12 6JL**

**Tenant** : **Paul Alexander Constantine**

**Landlord** : **Aaron Bird**

**Date of Objection** : **28 September 2023**

**Type of Application** : **Determination of a Market Rent sections 13 & 14 of the Housing Act 1988**

**Tribunal** : **Mr D Jagger MRICS  
Mr J Francis**

**Date of Summary  
Reasons** : **3 October 2024  
4 November 2024**

---

**DECISION**

**The Tribunal determines a rent of £1,450 per calendar month with effect from 29<sup>th</sup> September 2024.**

---

**We exercise our powers under Rule 50 to correct the clerical mistake, accidental slip or omission on the front page of our Decision dated 3 October 2024. Our amendments are made in red. We have corrected our original Decision because the effective date for the new rent is 29<sup>th</sup> September 2023**

## **SUMMARY REASONS**

### **Background**

1. On the 21 March 2024 the Landlord served a notice under Section 13(2) of the Housing Act 1988 which proposed a new rent of £1,450 per month in place of the existing rent of £1,256.25 per month to take effect from **29 September 2023**. The Tribunal were provided with a copy of the tenancy agreement which commenced on the 29 March 2017 which we will discuss in greater detail.

2. On the 28 September 2023 under Section 13(4)(a) of the Housing Act 1988, the Tenant referred the Landlord's notice proposing a new rent to the Tribunal for determination of a market rent.

### **Inspection and Hearing**

3. A hearing to hear the parties representations was held at 10.30am on the 3 October 2024. The landlord was represented by his father Jeremy Bird and the tenant was present.

4. Following the hearing, the Tribunal arrived at the property on the 3 October 2024 at around 12.45in the presence of the tenant and the landlord's father.

### **Evidence**

5. Directions prepared by the Tribunal on the 24 January 2024. The Landlord and the Tenant provided the Tribunal with completed Reply Forms and very comprehensive submissions which included photographs, witness statements, a floor plan, counsels opinion 2018.

6 The crucial first question for the Tribunal to determine is in connection with interpretation of clause 3.23 of the tenancy agreement dated 29 March 2017 between the tenant, Mr Constantine and the former landlords, Mr & Mrs Abrahams and Mr Fishman. The particulars of the agreement provided that the term was 12 months from 29 March 2017 to 28 March 2018 at a monthly rent of £1,256.25. It was agreed between the parties that the total rent for the entire tenancy would be payable in advance in a lump sum of £15,075. Clause 3.23 contains an option to renew in the following terms *"Tenant option to renew for a term of 12 months at the same rent, provided no breaches of the terms of the lease and notice of exercise of the option to be given no later than 3 months before the end of the term."*

7. The interpretation of this clause has been the subject of significant dispute between the parties for a number of years and it is apparent to the Tribunal that communication has broken down. Essentially, the tenant argues that this clause is an

option for perpetual renewal, ie with any initial renewal tenancy from 29 March 2018 to 28 March 2019 itself containing a further covenant to renew a further 12 months and so on. The important factor is the renewal is on the same terms and the same rent. The landlord argues that this is an option to renew the tenancy once only, for a term of 12 months from the 29 March 2018 to 28 March 2019. The question of construction of clause 3.23 turns on the interpretation of the precise wording of the clause construed in light of the background when the tenancy was drafted.

8. The effect of the subsequent oral and email exchanges in 2018 between Mr Constantine and Mr Jeremy Bird was that the tenancy agreement was renewed for a further 12 months from 29 March 2018 to 28 March 2019.

9. The agreement must be the primary source of evidence as to the intention of the parties to that agreement. When considering the wording of the agreement, the Tribunal adopts the guidance given to it by the Supreme Court:

**Arnold v Britton and others [2015] UKSC 36** Lord Neuberger:

“15. When interpreting a written contract, the court is concerned to identify the intention of the parties by reference to “what a reasonable person having all the background knowledge which would have been available to the parties would have understood them to be using the language in the contract to mean”, to quote Lord Hoffmann in *Chartbrook Ltd v Persimmon Homes Ltd* [2009] UKHL 38, [2009] 1 AC 1101, para 14. And it does so by focusing on the meaning of the relevant words, in this case clause 3(2) of each of the 25 leases, in their documentary, factual and commercial context. That meaning has to be assessed in the light of (i) the natural and ordinary meaning of the clause, (ii) any other relevant provisions of the lease, (iii) the overall purpose of the clause and the lease, (iv) the facts and circumstances known or assumed by the parties at the time that the document was executed, and (v) commercial common sense, but (vi) disregarding subjective evidence of any party’s intentions”.

10 On the balance of the evidence before it, the Tribunal is of the opinion the option granted by clause 3.23 of the 2017 tenancy agreement was a right to renew the tenancy only for one further year period of 12 months from 29 March 2028 to 28 March 2019 with no further option to renew after that. The contention that there has been an informal agreement to vary the agreement based to the email exchanges is subjective evidence that is insufficient to rebut the primary document, the agreement.

## **Determination and Valuation**

11. Having consideration of the comparable evidence provided by the Landlord, and our own expert general knowledge of rental values in the Manor Park area, we consider that the open market rent for the property if it benefitted from a more conventional layout and were in good marketable condition with reasonably modern kitchen and bathroom, modern services, carpets and curtains and white goods supplied by the landlord would be **£1,450** per month.

## **Decision**

12. The Tribunal therefore determined 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 was **£1,450** per calendar month.

13. The Tribunal directs the new rent of £1,450 per month to take effect on the **29 September 2023**. This, being the date set out in the Landlord's Notice of Increase.

**Chairman: Duncan Jagger MRICS**

**Date: 3 October 2024**

**4<sup>th</sup> November 2024**

## **APPEAL PROVISIONS**

These summary reasons are provided to give the parties an indication as to how the Tribunal made its decision. If either party wishes to appeal this decision, they should first make a request for full reasons and the details of how to appeal will be set out in the full reasons. Any subsequent application for permission to appeal should be made on Form RP PTA.