



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

Case reference : **LON/00AB/MNR/2024/0628**

Property : **Flat 57, Beech House
3 Sackett Road
Barking IG11 0WR**

Applicant : **Ishak Alibhai & Arma Khan
(Landlords)**

Representative : **None**

Respondent : **Jandira Aguiar &
Erica da Costa Campos
(Tenants)**

Representative : **None**

Type of application : **Application by landlords for a
review and for permission to
appeal.**

Tribunal : **N. Martindale FRICS**

Date & Venue : **First tier Tribunal Property
10 Alfred Place
London WC1E 7LR**

Date of decision : **7 February 2025 (this Review
replaces the Decision dated 3
February 2025)**

DECISION

Decision

1. The Tribunal has considered the landlord's, application for a review and the permission to appeal, by email of 5 February 2025 and determines that:
 - (a) it will review its decision of 3 February 2025 ('the Decision').
 - (b) permission to appeal, be refused.
2. In accordance with section 11 of the Tribunals, Courts and Enforcement Act 2007 and rule 21 of the Tribunal Procedure (Upper Tribunal) (Lands Chamber) Rules 2010, the respondent may make further application for permission to appeal to the Upper Tribunal (Lands Chamber). Such application must be made in writing and received by the Upper Tribunal (Lands Chamber) no later than 14 days after the date on which the First-tier Tribunal sent notice of this refusal to the party applying for permission to appeal.
3. The Upper Tribunal (Lands Chamber) may be contacted at: 5th Floor, Rolls Building, 7 Rolls Buildings, Fetter Lane, London EC4A 1NL (tel: 020 7612 9710); or by email: lands@hmcts.gsi.gov.uk

Reason for the Decision

4. *"The requirement of leave to appeal requires one to submit one's grounds of dissatisfaction for scrutiny to see whether they have sufficient merit to justify an appeal."* [Saleem v SoS for the Home Department [2001] 1 WLR 443, per Hale LJ @459]. However; *"It is Parliament's wish and intention that resources should not be devoted to continuing appeals at higher levels if an appeal fails to cross the threshold test of permission to appeal."* [Moyse v Regal Mortgages Ltd [2004] EWCA Civ 1269, per Brooke LJ @ 31].
5. Rule 55, Property Chamber Rules 2013, restricts the power of review: *"The Tribunal may only undertake a review of a decision – (a) pursuant to rule 53 (review on an application for permission to appeal); and (b) if it is satisfied that a ground of appeal is likely to be successful."*
6. The refusal of permission to appeal is because the grounds stated, are arguable and will be dealt with by way of this Review, but beyond this then there is no realistic prospect of further success by the landlord.
7. In the original referral and prior to the Decision, the Tribunal received a bundle of electronic documents including several copies ostensibly of the same standard Directions but, did not receive a standard Reply Form from either the landlord or tenant. The Tribunal therefore concluded that none had been made and had to reply on such details as appeared in the original tenant's application form. On appeal the landlord has now referred the Tribunal to their details set out in 'Reply Form' as being within that "copy" of the

Directions. Similarly, the tenant also filed their Reply Form under the same file title “24.11.06 Directions’. The landlord’s Reply Form also made passing reference to about 8 similar 2 bedroom flats to let in the area, of which the Tribunal has had regard to.

8. Having uncovered the tenants’ mislabelled Reply Form file as originally submitted, the Tribunal notes now that:
9. 1. The tenant agrees (with the landlord) that the Property is on the fourth floor and not as they asserted in their application form on the third floor, (though there is a lift to all floors of the 5 level block).
10. 2. The tenant referred to accommodation at the Property having, “the suite” and a bedroom and a bathroom from which the Tribunal concluded it was a one bedroom flat with one bathroom. By contrast the tenant’s Reply Form refers to living room and 2 bedrooms but does not mention any kitchen or bathroom.
11. 3. The tenant’s application form does not name the landlord with contact details as required but references an agent. (This omission led to a delay in getting the original Directions to the landlord).
12. 4. The tenant accepted that the Property included landlords’ double glazing, central heating, carpets and curtains and white goods and that there was a balcony and communal gardens. However, they did not accept that there was a garage or private parking in the tenancy. They did refer to an apparent later variation with the landlord for garage parking at a rent higher than the passing figure of £1600 pcm.
13. Having uncovered the landlords’ mislabelled Reply Form file as originally submitted, the Tribunal notes now that the landlord made some representations:
 14. 1. The landlord agrees (with the tenant) that the Property is on the fourth floor.
 15. 2. The landlord referenced the full accommodation as 2 bedrooms, 2 bathrooms, living room, kitchen.
 16. 3. The landlord refers to a garage and off-road parking as included, as well as private garden with the lease contrary to the tenant though it is unclear this was as a result of a later variation.
 17. 4. The landlord refers to other, mainly fixed furnishings, wardrobes, a ‘media wall’, fitted roller blinds, a loose sofa and at least one bed as also being included in the letting.
 18. 5. The landlord raises the rising service charges and letting agency fees as apparently reasons to raise the rent. However, these are not factors in determining what an occupier will pay for the accommodation, though they may affect the net rental receipt.

19. The inability of parties to clearly and concisely set out the terms of their lease in a simple Reply Form and to file this back to the Tribunal office with the correct file name, in accord with Directions leads to confusion, as has been experienced here.
20. On balance the Tribunal finds that the discrepancies in the account received from the tenants outweigh those from the landlord and therefore the Tribunal prefers the latter's evidence of fact, as set out in their now uncovered Reply Form.
21. Principally, as the account of the accommodation of the Property having been corrected from a 1 bedroom, 1 bathroom to a 2 bedroom 2 bathroom flat, based on the Tribunal's own general knowledge of market rent levels in Barking it determines that the subject Property would let on a normal Assured Shorthold Tenancy (AST) terms, for £1,800 per calendar month, fully fitted and in good order. It makes no deductions. The rent of this Property is therefore determined at £1,800 pcm.
22. The new rent will take effect from and including 14 September 2024, the effective start date given in the landlord's Notice. As the Form of Determination states: **The Landlord is not obliged but, may charge a rent up to but, not in excess of, the figure shown at box 1; £1800 pcm.**
23. By way of a Review, this Decision now replaces 'the Decision' of 3 February 2025. The corresponding Form of Decision will accompany it.

N Martindale FRICS

7 February 2025