



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

**Case Reference** : **LON/00BK/MNR/2024/0646**

**Property** : **Flat 4 Highwood House, 148  
Cavendish Street, London, W1W 6YH**

**Tenant** : **Mr Martin Moore**

**Landlord** : **Pendragon Properties Ltd**

**Representative** : **Marcus Cooper Group**

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

**Tribunal Members** : **Mrs Ratcliff MRICS  
Ms Flynn MA MRICS**

**Date and Venue  
of Hearing** : **14 January 2025 at 10, Alfred Place,  
London, WC1E 7LR**

**Date of decision** : **13 February 2025**

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**DECISION**

**The Tribunal determines a rent of £2,450 per calendar month with  
effect from 13 February 2025.**

## REASONS

### Background

1. The Landlord, Pendragon Properties Ltd, served a notice under Section 13(2) of the Housing Act 1988 in relation to Flat 4 Highwood House, 148 Cavendish Street, W1W 6YH (the subject property). The Notice was dated 29 July 2024 and proposed a new rent of £3,000 per calendar month in place of the existing rent of £820.30 per calendar month to take effect from 1 September 2024.
2. On 27 August 2024 under Section 13(4)(a) of the Housing Act 1988, the Tenant, Mr Martin Moore, referred the Landlord's notice proposing a new, increased rent to the Tribunal for determination of a market rent. The Tenant's referral was received by the Tribunal on 28 August 2024.
3. The Tribunal issued Directions, dated 15 November 2024, setting out a timetable for submissions and return of Reply forms.
4. The Landlord and the Tenant both returned their Reply forms and made submissions as to the history of the tenancy, condition and size of the property, location and environment. The Landlord submitted details of comparable lettings in support of the proposed rent increase.

### Law

5. The law is found in section 14 of the Housing Act 1988 ('the 1988 Act'), which, insofar as is relevant to this application, provides:

#### **14 Determination of rent by tribunal.**

*(1) [...] the appropriate tribunal shall determine the rent at which, subject to subsections (2) and (4) below, the appropriate tribunal consider that the dwelling-house concerned might reasonably be expected to be let in the open market by a willing landlord under an assured tenancy—*

*(a) which is a periodic tenancy 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 the rent) are the same as those of the tenancy to which the notice relates; and*

*(d) in respect of which the same notices, if any, have been given under any of Grounds 1 to 5 of Schedule 2 to this Act, as have been given (or have effect as if given) in relation to the tenancy to which the notice relates.*

*(2) In making a determination under this section, there shall be disregarded—*

*[...]*

*(b) any increase in the value of the dwelling-house attributable to a relevant improvement carried out by a person who at the time it was carried out was the tenant, if the improvement—*

*(i) was carried out otherwise than in pursuance of an obligation to his immediate landlord, or*

*(ii) was carried out pursuant to an obligation to his immediate landlord being an obligation which did not relate to the specific improvement concerned but arose by reference to consent given to the carrying out of that improvement; and*

*(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.*

*(3) For the purposes of subsection (2)(b) above, in relation to a notice which is referred by a tenant as mentioned in subsection (1) above, an improvement is a relevant improvement if either it was carried out during the tenancy to which the notice relates or the following conditions are satisfied, namely—*

*(a) that it was carried out not more than twenty-one years before the date of service of the notice; and*

*(b) that, at all times during the period beginning when the improvement was carried out and ending on the date of service of the notice, the dwelling-house has been let under an assured tenancy; and*

*(c) that, on the coming to an end of an assured tenancy at any time during that period, the tenant (or, in the case of joint tenants, at least one of them) did not quit.*

*(7) 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.*

## Hearing

6. A hearing was held on 14 January 2025. Mr Moore, the Tenant, attended in person and was accompanied by his son, Mr Christopher Moore.
7. The Landlord, Pendragon Properties Ltd, did not attend. Mr Philip Mizon of Marcus Cooper Group had, by email of 6 January 2024, advised the Tribunal that he was no longer able to attend as he was required to attend a hearing in the Upper Tribunal in respect of another property. Mr Mizon asked that *“On the basis the Landlord confirmed that it was happy to deal with the matter “on paper” then unless the tribunal require any submissions to be made in person, can the hearing proceed without my attendance but with reference to the statement previously filed?”*

## Inspection and property

8. The Tribunal carried out an inspection of the property on 14 January 2025. The Tenant and his son were present. The Landlord did not attend.
9. The Tribunal found the property to be a three-bedroomed ground floor flat in an Edwardian red brick building with a slate mansard roof. The flat is reached via a communal entrance door and hallway. There are steps up to the entrance door and then steps internally to reach the main hallway where there is a pigeonhole system of boxes for post, and lift and stairs to the upper floors.
10. The property comprises a living room, kitchen, three bedrooms and a bathroom. There is central heating but no double-glazing. The living room and two of the bedrooms have windows to the front of the building, the third bedroom and the kitchen overlook a small yard to the rear. The internal decorations in the property have been well maintained by the Tenant. There were carpets and window coverings throughout, which, along with white goods, are the Tenant's.
11. There was some light cracking evident to the chimney breast in the kitchen. The bathroom and the kitchen were both clean but dated and not fitted to the standard expected by the market in the location.

## Evidence

12. The Tribunal has carefully considered documents submitted with the application, all written submissions provided by both the Tenant and the Landlord and the Tenant's oral submissions. The commentary below summarises the key elements.

## **Background to Tenancy**

13. The Tenant helpfully explained that since 1977, he and his late wife had 'lived-in' as he was on-call for work at the nearby University College Hospital (UCH) and that his rent was low for this reason. UCH moved the Tenant to the subject flat in 2010, and then sold the flat shortly afterwards to Pendragon Properties Ltd. There had been a number of promises over the years as to security and limits on how much the rent would increase. The Tenant asserts that the rent should be a fair rent as he is a keyworker and has been for over 50 years.
14. In their covering letter to the Notice of Increase, the Landlord explained that the rent had not been increased since they had become the Landlord in 2012. Initially, in March 2013, despite considering the rent to be below the market level, the Landlord agreed to not increase the rent for a minimum of five years in recognition of the Tenant's assistance to the Landlord "in relation to the building following the purchase". The Tenant described this as him acting as an "unpaid caretaker when anything happens in the building". The period of no increase in rent was then extended for a further two years. Due to the impact of Covid, and then the sad passing of the Tenant's wife, the Landlord further deferred seeking an increase until, on 29 July 2024, they served their Notice of Increase.
15. None of this background appears to be in dispute.

## **Landlord's submission**

16. The Landlord accepted that they had no record of carrying out any improvements to the property since they took ownership of the flat in 2012. Although, a lift had been installed, which does not benefit the Tenant, and the common parts and exterior of the building had recently been subject to a programme of works.
17. The Landlord provided evidence of a number of their own lettings in nearby 12-14 Cleveland Street and 66 Goodge Street, on either 12- or 24-month tenancies. The Landlord helpfully provided copies of the assured shorthold tenancy agreements, plans and letting particulars.
18. The two smaller one-bedroom flats in Cleveland Street let in 2024 for £31,800 and £30,000 per annum (equating to £2,650 and £2,500 per calendar month).
19. The three Goodge Street flats have two-bedrooms and are between 74.35m<sup>2</sup> and 77.77m<sup>2</sup>, somewhat larger than the subject property at 63.09m<sup>2</sup>. They let between June 2023 and August 2024 at rents ranging from £47,304 to £54,000 per annum (£3,942 to £4,500 per calendar month).

20. The Landlord also provided a two-page schedule of lettings reported on LonRes and, from this, referred the Tribunal to lettings in Highwood House, the same building as the subject property. These are smaller one-bedroom flats, either basement or ground floor, and let at £27,612 or £30,576 per annum (£2,301 or £2,548 per calendar month). Lettings particulars and plans were provided for these flats.
21. From the Landlord's analysis of the LonRes schedule of rents, they noted that three-bedroom flats had let between £650 and £2,400 per week (£2,817 to £10,400 per calendar month). They accepted that all except one in this range were larger than the subject property, the exception being a first floor flat in Carbuton Street, which is 44.2 m<sup>2</sup> and let at the lower end of the range at £650 per week (£2,817 per calendar month).
22. Two-bedroom flats were more of a similar size to the subject property and had let between £750 and £1,250 per week (£3,250 to £5,417 per calendar month).
23. In conclusion, the Landlord put most weight on their own lettings in 12-14 Cleveland Street and 66 Goodge Street, and the lettings in Highwood House, pointing out two were in the basement and naturally attracting lower rents. They considered that the proposed rent of £3,000 per calendar month was reasonable, which they suggested was supported by their analysis of the wider schedule of lettings.

### **Tenant's submission**

24. The Tenant submitted that the Landlord had made no improvements to the property since 2011, when they moved to the flat. However, the Tenant had redecorated several times, replaced the carpets and laid wooden floors, and provided white goods. The Tenant drew the Tribunal's attention to the lack of double-glazing and that some windows had been painted shut when the exterior of the building was decorated, which the Tenant had remedied.
25. The Tenant explained that the central heating was old and that some of the radiators are too small for the size of the room, meaning they were ineffective.
26. The Tenant went on to submit that there were issues with the building and location, which would impact the rent achievable. Examples include noise from parties, fire alarms being set off, issues with post going missing and being disturbed, minor infestation, the regular smell of drugs in the building, and slamming of the front door during the night. The Tenant also thought that the rent would be affected by the noise from the Westminster University building opposite, which is open 24 hours a day, and the next-door café, which has a drinks licence and opens late.

27. When asked about the comparables put forward by the Landlord, the Tenant said that, from the letting particulars, his flat did not appear to be in the same condition or to the same standard as the comparables.

### **Determination and Valuation**

28. The Tribunal has carefully considered the written submissions provided by both parties, the oral submissions and evidence given by the Tenant at the hearing, and their own observations from the inspection.
29. The Tribunal is required to determine the rent at which the subject property might reasonably be expected to let in the open market by a willing landlord under an assured tenancy having regards to the specific conditions in s14 of the 1988 Act. Although the Tribunal appreciates the difficulty of the situation, the personal circumstances of the Tenant are not relevant to determining the market rent.
30. The starting point is, therefore, what rent might reasonably be expected to be achieved in the open market for the property in a modern tenantable state. If required, this is then adjusted to reflect the specifics of the subject property, including disrepair, disregards and improvements.
31. In arriving at their view, the Tribunal has considered the evidence of rents agreed at 66 Goodge Street, provided by the Landlord. Although two- rather than three-bedroomed, the flats are larger and appear to have the benefit of a second shower room. The Tribunal considers that Goodge Street, along with the one-bedroom flats let in Highwood House and Cleveland Street, help to define a range of values that it might be reasonable to expect the subject flat to fall within; an upper limit of £3,900 to £4,500 and a lower limit of £2,300 and £2,650.
32. Applying the Tribunal's own expertise and general knowledge of rental values in the area to the above analysis, the Tribunal considers that the open market rent for the property unfurnished, given its location and in good tenantable condition, would be in the region of £3,500 per calendar month.
33. From this level of rent, the Tribunal has considered the evidence of both parties and its own observations on inspection. The Tribunal agrees with the Tenant that the subject flat is not in the same condition or to the same standard of modern fittings or finish as the comparables, or that the market expects in this area. The Tribunal has therefore made adjustments to reflect:
- i. kitchen and bathroom are dated and not to modern expectations,
  - ii. the Tenant has provided floor and window coverings,
  - iii. the Tenant has provided their own white goods,

- iv. the Tenant is responsible, and has carrying out, internal redecorations,
- v. minor repairs needed,
- vi. lack of double-glazing.

34. The Tribunal considers that a prospective tenant would make a deduction in the rent of approximately 30% to reflect these factors.

35. The full valuation is shown below:

	per calendar month/week
Market Rent	£3,500
<i>Less</i>	
Dated kitchen	)
Dated bathroom	) approx. 30 %
Lack of window and floor coverings	)
Lack of white goods	)
Tenant's internal decoration liability	)
Minor repairs	)
	<u>£1,050</u>
	£2,450

36. The Tribunal determines a rent of £2,450 per calendar month.

### **Hardship**

37. In the Tenant's written submission they raised both financial and health concerns and asked the Tribunal to determine a later rent start date. The Tenant repeated and expanded on his concerns in the hearing.

38. The Tribunal heard that the Tenant was a keyworker at a nearby Hospital and that, as such, he was unlikely to be able to pay the new increased rent and certainly would not have the means to pay any backdated increase. In addition, the Tenant explained that the stress caused by worrying about losing his home had already resulted in needing to attend Accident and Emergency, and he was concerned that the worry over a significant backdated rent bill would only worsen his health.

39. Under s14(7) of the 1988 Act, the rent determined by the Tribunal is payable from the date specified in the landlord's Notice of Increase. However, if it appears to the Tribunal that it would cause undue hardship to the tenant, the Tribunal may direct that the rent will become payable from a later date, up to the date of determination. Undue hardship is often taken to relate to the financial impact of a decision, but it can be subjective, and, in this case, a wider meaning is taken into consideration.

40. The Tenant's evidence about his situation was accepted by the Tribunal. This is a particularly significant increase in rent, which would otherwise



be backdated by 5 months or so. It is not unreasonable to accept that this would cause both financial and personal hardship given the Tenant's employment and previous health concerns.

41. The Tribunal is therefore satisfied that a starting date of that specified in the Landlord's notice would cause the tenant undue hardship and determines that the increased rent should become payable from the date of this decision.
42. In case either party wishes to seek legal advice in this matter, a copy of a leaflet providing details of various pro bono organisations that may be able to assist is sent with this decision.

### **Decision**

43. 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 was £2,450 per calendar month.
44. The Tribunal directs the new rent of **£2,450 per calendar month** to take effect on **13 February 2025**, the date of this decision.

**Chairman: Mrs Ratcliff MRICS**

**Date: 13 February 2025**

### **APPEAL PROVISIONS**

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 should be made on Form RP PTA available at <https://www.gov.uk/government/publications/form-rp-pta-application-for-permission-to-appeal-a-decision-to-the-upper-tribunal-lands-chamber>

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. **Please note that if you are seeking permission to appeal against a decision made by the Tribunal under the Rent Act 1977, the Housing Act 1988 or the Local Government and Housing Act 1989, this can only be on a point of law.**

If the Tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).