



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

Case Reference : **JM/LON/00AE/MNR/2021/0180
P:PAPERREMOTE**

Property : **13 Pember Road London NW10 5LR**

Applicant : **Ms Maria-Elena Martinez**

Respondent : **Tidstead Limited**

Date of Application : **22 November 2021**

Type of Application : **Determination of the market rent
under Section 14 Housing Act 1988**

Tribunal : **Mrs E Flint DMS FRICS**

**Date and venue of
Determination** : **2 February 2022
remote hearing on the papers.**

DECISION

The market rent as at 25 November 2021 is £300 per week.

This has been a remote hearing which has been consented to by the parties. The form of remote hearing was P:PAPERREMOTE. A face-to-face hearing was not held because it was not practicable and all issues could be determined in a remote hearing. The documents that the Tribunal were referred to are in an electronic bundle, the contents of which have been noted. The order made is described below.

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Background

1. On 22 November 2021, the tenant referred to the Tribunal a notice of increase of rent served by the landlord under section 13 of the Housing Act 1988.
2. The landlord's notice, which was dated 20 October 2021 proposed a rent of £360 per week with effect from 25 November 2021.
3. The tenancy is a periodic tenancy by succession which commenced in 2017 on the death of the tenant's father.
4. Directions were issued by the tribunal on 7 December 2021.
5. The parties did not object to the matter being dealt with on the papers and both made representations to the tribunal.

The Evidence

6. The landlord stated that the flat is on the ground floor of a three storey semi detached house. The accommodation which comprises three rooms, kitchen and bathroom/wc is double glazed. The tenant has the use of the rear garden which has double gates and could be used as off street parking.
7. The landlord stated that he had installed electric eco digital panel heaters in the flat in November 2020 following a Notice from the local authority.
8. He was of the opinion that garden flats commanded a premium of 10% over flats without open space. He referred to eight flats available on the open market with rent in the range of £400 - £650 per week. He was of the opinion that 15% should be deducted from the open market rent to reflect the condition of the flat: the proposed rent of £360 per week is reasonable.
9. The tenant stated that there is no heating in the kitchen, bathroom or hallway. There is damp in the main bedroom, kitchen and bathroom. The second bedroom is small and can only be considered as a single room. The carpets, curtains and white goods are the tenants.
10. The rear yard could only be used to park a very small car as the double gates open inwards, otherwise the area would not be secure.

The Accommodation

11. The Tribunal viewed the locality via google maps and associated programmes.
12. The house is situated within a heavily parked one way street of similar houses situated in the area known as the Haringay ladder.

13. It is accepted by the parties that the house is not in the condition of most flats available to let on the open market.

The law

14. In accordance with the terms of section 14 Housing Act 1988 the Tribunal proceeded to determine the rent at which it considered that the subject property might reasonably be expected to be let on the open market by a willing landlord under an assured tenancy.
15. In so doing the Tribunal, as required by section 14(1), ignored the effect on the rental value of the property of any relevant tenant's improvements as defined in section 14(2) of that Act.

Valuation

16. In coming to its decision, I had regard to the evidence supplied by both the landlord and the tenant. The comparables were mainly superior in terms of modernisation to the subject premises and generally benefited from white goods, floor coverings and blinds or curtains. The comparables were all in good repair, including some which were newly refurbished and others which had been extended.
17. I concluded that the rent at which the property might reasonably be expected to be let on the open market would be £425 per week which is the figure the landlord must have used to arrive at the rent of £360 per week. The open market assumes that the flat is in the condition usually found in open market lettings. However, this flat requires updating: the kitchen is basic, the bathroom dated, the panel heaters have not been installed throughout the flat and there is some dampness and the carpets, curtains and white goods are the tenants.
18. I have deducted £125 from the open market rent to reflect these matters together with the terms of the tenancy since the tenant has more onerous obligations in terms of being responsible for minor internal repairs and internal decorations than is the norm under an Assured Shorthold letting.

The decision

19. The rent of £300 per week will take effect from 25 November 2021 in accordance with the landlord's notice

Chairman: Evelyn Flint

Dated: 2 February 2022

ANNEX - RIGHTS OF APPEAL

- i. 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.

- ii. 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.
- iii. 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.
- iv. 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.

Appendix Housing Act 1988

14 Determination of rent by rent assessment committee.

(1) Where, under subsection (4) (a) of section 13, a tenant refers to a rent assessment committee a notice under subsection (2) of that section, the committee shall determine the rent at which, subject to subsections (2) and (4) below, the committee 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—

- (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 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 to 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.

(4) In this section “rent” does not include any service charge, within the meaning of section 18 of the Landlord and Tenant Act 1985, but, subject to that, includes any sums payable by the tenant to the landlord on account of the use of furniture or for any of the matters referred to in subsection (1) (a) of that section, whether or not those sums are separate from the sums payable for the occupation of the dwelling-house concerned or are payable under separate agreements....

(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 ... 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.

