

Notice of the Tribunal Decision and Register of Rents under Assured Periodic Tenancies (Section 14 Determination)

Housing Act 1988 Section 14

Address of Premises

1B Pemberton Road, Finsbury Park,
London, N4 1AX

The Tribunal members were

Miss A Seifert FCI Arb
Mr A Parkinson MRICS

Landlord

London & Quadrant Housing Trust

Address

Cray House, 3 Maidstone Road, Sidcup, Kent, DA14 5HU

Tenant

Mr Z Dilworth

1. The rent is: £ 120.49 Per week (excluding water rates and council tax but including any amounts in paras 3)

2. The date the decision takes effect is: 1st April 2020

*3. The amount included for services is/is negligible/not applicable £7.67 Per week

*4. Service charges are variable and are not included

5. Date assured tenancy commenced 25th February 2008

6. Length of the term or rental period Weekly

7. Allocation of liability for repairs As per tenancy agreement /as per section 11 Landlord and Tenant Act 1985

8. Furniture provided by landlord or superior landlord

No

9. Description of premises

Ground floor flat. The accommodation comprises 1 living room, 1 bedroom, 1 kitchen, 1 bathroom.

Chairman

A Seifert

Date of Decision

21st April 2021



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

Case Reference : *LON/00AP/MNR/2020/0090*

Property : Flat B, 1 Pemberton Road, London, N4
1AX ('flat B')

Applicant : Mr Zephyr Dilworth ('the tenant')

Representative :

Respondent : L & Q Housing Trust ('the landlord')

Representative :

Type of Application : Section 13 Housing Act 1988

**Rent Assessment
Committee Members** : Miss A Seifert FCI Arb
Mr A Parkinson MRICS

Date and venue : 21st April 2021 at 10 Alfred Place, London
WC1E 7LR

Date of Decision : 21st April 2021

REASONS FOR DECISION

The background

1. The tenant, was granted a 'starter tenancy' of flat B by the landlord by a tenancy agreement dated 25th February 2008 at the initial total rent of £79.18 per week. The starting date was stated to be 3rd March 2008. The tenancy automatically became a non-shorthold assured weekly tenancy at the end of 12 months, on the same terms as the tenancy agreement.
2. By a notice under section 13(2) of the Housing Act 1988 dated 27th January 2020, the respondent landlord proposed a new rent for the property of £139.55 per week in place of the existing rent of £117.32 per week. In the notice of increase, the amounts included and separately identified in the rent were Fixed Service Charges of £7.47 per week in the existing rent and Fixed Service Charges of £26.73 per week in the proposed rent.
3. The notice stated that the starting date for the new rent would be 1st April 2020.
4. By an application to the Tribunal under section 13(4) of the Housing Act 1988, dated 7th March 2020, the tenant referred the notice proposing a new rent to the Rent Assessment Committee ('the Tribunal') for a determination.
5. The Tribunal issued Directions dated 22nd January 2021. In the Directions it was stated that the Tribunal would decide the application based on the written submissions of the parties. However, both parties were provided with the opportunity to request a hearing which may have been by way of telephone hearing or video conferencing. The Directions stated that if a request for an inspection was made this would be for an external inspection only. No such requests were made. The parties indicated that they were content for the Tribunal to set the rent on the basis of the papers provided without an inspection or a hearing.

The Evidence

6. Information was provided by the tenant in the Reply. Flat B is a ground floor flat. The building does not contain a lift. The accommodation comprises one bedroom, one living room, one kitchen and a bathroom. No furniture was

provided under the tenancy. It was noted that flat B had central heating and double glazing provided by the landlord. White goods, carpets and curtains were provided by the tenant. The tenant stated that no improvements had been carried out. It was stated that landlord was responsible for wear and tear and the tenant was responsible for damages caused by the tenant.

7. The following disrepairs/ defects were noted in the Reply form:
 - a. The living room has a crack going from the wall to the ceiling. It was to have been inspected but this had not happened. The bathroom has mould on the wall which the tenant stated affected his asthma. This room had peeling paint and was in need of decoration.
 - b. The kitchen has a wet patch on the ceiling and peeling paint on the walls. The floor boards in the kitchen were 'destroyed'. This was replaced by cheaper laminate than was previously fitted.
8. Photographs were provided showing what was described as peeling wall paper in the bathroom and mould on the walls. Photographs were also provided of cracks on the living room wall, peeling wallpaper in the living room, damp in the kitchen ceiling and the replaced laminate floor.
9. In a statement the tenant stated flat B forms part of a terraced house. He shares two communal lights with the tenant of flat A. He stated that one light is outside the property. He and his neighbour had switched this off as they considered this unnecessary. The other light is in the common parts and is operated by a two-minute time switch. For reasons set out in his statement he challenged the cost of the electricity charges which he considered had been subject to a substantial increase. The fixed service charges identified in the proposed rent of £26.73 in place of £7.47 in the existing rent, were considered by the tenant to be unreasonable.
10. No written submissions were provided by the landlord. No evidence of comparable rents was provided by either party. There was no inspection of the property by the Tribunal.
11. For the above reasons, the tenant submitted that he considered the proposed rent increase was not appropriate.

The law

12. The process by which the Rent Assessment Committee determines a rent following a referral by a tenant under section 13 of the Act is set out in section 14 of the Act.
 - (1) Where, under subsection 4(a) of section 13, a tenant refers to a rent assessment committee a notice under subsection (2) of at section, the committee shall determine the rent at which, subject to subsections (2)

and (4), 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.

Decision

13. In accordance with the terms of section 14 of the Act, the Tribunal proceeded to determine the rent at which it considered that the property might reasonably be expected to be let on the open market by a willing landlord under an assured tenancy. In doing so 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).
14. No evidence of open market rents was provided by either party and the Tribunal relied on its knowledge and experience as an expert tribunal.
15. In the first instance the Tribunal determined what rent the landlord could reasonably be expected to obtain for the property in the open market if it were let today in the condition considered usual for such an open market letting.
16. As an expert Tribunal and having regard to our own general knowledge of open market rents in the area of Finsbury Park/Harringay, we determined the likely open market rent. However, as noted in the tenant's evidence, flat B is

not in the condition considered usual for a modern letting at a market rent for such a property. It was therefore necessary to adjust the hypothetical rent to allow for the tenancy terms and the state of repair and condition of flat B.

17. The existing total weekly rent is £117.32 including the fixed service charge of £7.47.
18. However, the maximum percentage increase for 2020/2021 is 2.7%. Therefore, the rent will be increased to £120.49 per week (£117.32 + 2.7%).
19. The Tribunal therefore determined the total weekly rent for the property at £120.49. The starting date for the new rent was specified in the landlord's notice as 1st April 2020.

Name: A Seifert

Date: 21st April 2021

Judge of the First-tier Tribunal

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.