



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

Case Reference : **LON/00AY/MNR/2021/0140
V:REMOTE**

Property : **32 Maple Mews,Streatham London
SW16 2AL**

Applicant : **Mr & Mrs Iresu Nuhu Ali
& Aishat Muhammed Ali**

Respondent : **Mr Simon Messenger**

Date of Application : **14th July 2021**

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

Tribunal : **Mr Mark Taylor MRICS**

**Date and venue of
Determination** : **27th September 2021
remote video hearing.**

DECISION

The market rent as at 27th September 2021 is £1600 per month.

This has been a remote hearing which has been consented to by the parties. The form of remote hearing was V: REMOTE with all participants joining from elsewhere. 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 a bundle, the contents of which have been noted. The order made is described below.

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Background

1. On 14th July 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 11th June 2021 proposed a rent of £1700 per month with effect from 15th July 2021.
3. The tenancy is now a periodic tenancy which commenced on 15th February 2016 for a term of one year at a monthly rent of £1300.
4. Directions were issued by the tribunal on 21st July 2021.
5. A remote hearing was held attended by both the landlord and the tenant. Prior to the hearing the tribunal received written representations with a number of photographs from the tenant of the interior of the property and details of a property available to rent of a similar property to rent on the 1st floor above the property. The landlord's written representations described the accommodation, acknowledged items of disrepair and remedial action taken, a brief history of the letting in 2016 and his view it was below the then market value. A list of comparable properties, being marketed in the area, which he considered indicated that the rent proposed is reasonable and potentially below market value. He also made comment on the property that was available on the 1st Floor which was similar to the ground floor save that the bathroom had been split to form two smaller facilities.
6. The landlord sought to introduce a late submission on the 24th September 2021 which updated on progress with repairs and some additional properties which had come onto the market. As this was only 2 pages long and contained information that might be helpful to the tribunal this was allowed on the condition that the tenant would be given an opportunity of time, if necessary to consider and reply.
7. This reply was made later on the day of the hearing and confirmed that the leaking tap had been fixed but the radiator valve is still leaking as another visit with two operatives is required.

The Hearing

8. Mrs Ali referred to her/husband's written submissions. She said the property still has some items of repairs outstanding including bathroom tap and leaking radiator valve and some water staining in the living room, from the upstairs flat. This had been the case for a number of years and in her view now required refurbishment.
9. Mrs Ali further explained that her two children had recently been diagnosed with Autism and as a result was concerned that she maintained stability for them in terms of schools and contacts. She also confirmed that ideally, she

wished to vacate the property but that choice was limited by lack of suitable affordable properties that fit the family's criteria. Mrs Ali also explained that if the rent increased then this would make this unaffordable and again increase the current stressful situation.

10. Mr Messenger was content to rely on his submissions but reinforced that he considered himself to be a diligent landlord and was using his best endeavours to get contractors to complete the outstanding works as soon as possible. He was surprised at additional water staining as thought his had all been dealt with. Coincidentally, a contractor appointed by Mr Messenger, was at the time of the hearing trying to gain access to the flat to undertake repair to tap and valve but could not get an answer.
11. Mr Messenger helpfully explained that there was a small private garden, accessed from French doors in the living room, to the rear/side of the property comprising approximately 10m² laid partly to grass and paving slabs. Mrs Ali confirmed this was accurate.
12. From its own enquiries the tribunal was aware that the flat on the 1st floor referenced in both parties' submissions was no longer on the market and asked if either could assist on what terms this may have been let at given its comparability and relevance establishing the rent for the subject property. Mrs Ali believed that it may have been withdrawn from the market and put for sale as this was one of 2 properties in the block which had been advertised without success on rental and sale basis in recent time without success. Mr Messenger said he was not able to assist on this point

The Accommodation

13. The Tribunal viewed the locality via google maps and associated programmes but this was limited to the first part of the development as it is accessed via a gated private access.
14. The subject property is on an estate of similar houses and flats with the subject being in a block of 6 similar flats. Local facilities are nearby.
15. The flat comprises a living room, kitchen, 2 double and one single bedrooms with one bathroom, with a small private grassed/paved area providing access to a communal garden area with an allocated car parking space.

The law

16. We must first determine that the landlord's notice under section 13(2) satisfied the requirements of that section and was validly served.
17. 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.

18. 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

19. In coming to its decision, the tribunal had regard to the representations made by both parties. We are not entitled to have regard to the financial position of either party. The matters we are required to take into account are set out in section 14 of the Act which we have summarised above.

20. Taking into account evidence supplied by the landlord, which were all asking terms rather than actual transactions, our own general knowledge of market rent levels and doing the best I can with the limited information before the tribunal we determine the open market rent of the subject property fully modernised as is the condition usually found in open market lettings at £1685 per month. However, taking into account the current condition of the property we have applied a 5% discount to produce a rent of £1600 per month.

The decision

21. We concluded that the rent at which the property might reasonably be expected to be let on the open market in its current condition would be £1600 per month.

22. The rent has been assessed as at 27 September 2021 as backdating the rent to the date shown on the application, 15th July 2021 would cause the tenant undue hardship. The rent determined sets a ceiling on the rent which may be charged by the landlord. This decision does not preclude the parties agreeing that the rent payable is a lesser amount.

Chairman: Mark Taylor MRICS

Dated: 1st October 2021

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 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....