



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

Case reference : **LON/00BK/MDR/2021/0014**

HMCTS code (paper, video, audio) : **P:PAPERREMOTE**

Property : **104 Langford Court, 22 Abbey Road, London, NW8 9DP**

Applicant : **Mrs Madouna Abed Semaan**

Representative : **In Person**

Respondent : **Mr Jethro Marsh**

Representative : **In Person**

Type of application : **Market Rent under s22 of the Housing Act 1988**

Tribunal member(s) : **Mr A Harris LLM FRICS FCI Arb**

Date and venue of hearing : **28 July 2021 at 10 Alfred Place, London WC1E 7LR**

Date of decision : **28 July 2021**

DECISION

Covid-19 pandemic: description of hearing

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 on paper. The documents that I was referred to are the tenancy agreement, the application and covering correspondence from the parties the contents of which the tribunal have noted

Decisions of the tribunal

- (1) Pursuant to section 22(3)(a) the tribunal determines that there is a sufficient number of similar properties in the locality let on assured tenancies.
- (2) Pursuant to section 22(3)(b) the tribunal determines that the rent under the assured shorthold tenancy in question is not significantly higher than the rent which the landlord might reasonably be expected to obtain under the tenancy.
- (3) The tribunal makes the determinations as set out under the various headings in this decision.

The application

1. The applicant seeks a determination pursuant to section 22 of the Housing Act 1988 following the grant of a tenancy for a term of 2 years from and including 3 February 2021 at commencing rent of £295 per week.

Background

2. By a tenancy agreement made on 28 January 2021 the landlord let the subject property to the tenant.
3. On 12 May 2021 the Tenant applied to the tribunal for determination of a rent under section 22 of the Housing Act 1988.
4. The tribunal has received no rental evidence from either party.
5. An inspection was not possible on this occasion and the tribunal relied on the correspondence and its knowledge and experience.

The property

6. Langford Court is a well-located block with good access to public transport. The block provides a high standard of services including lift access and a concierge.

7. The flat is a 1 bedroom flat providing reasonably spacious accommodation located on the 6th floor.
8. The tenants reply form complains of disrepair at the property and the lack of heating in the bathroom.
9. Correspondence from the landlord indicates that he has tried to arrange repairs but access has been denied by the tenant.
10. It is not the function of this tribunal to resolve this issue.

The Law

11. Under section 22(2)(aa) an application to the tribunal must be made within 6 months of the commencement of the tenancy. The tribunal is satisfied the application was made in time.
12. Under section 22(3) the tribunal must then determine that there is a sufficient number of similar properties in the locality let on assured tenancies and secondly that the rent payable under the assured shorthold tenancy in question is significantly higher than the landlord might reasonably expected to obtain under the tenancy.
13. The Housing Act 1988, section 22 requires the tribunal 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.

Valuation

14. No rental evidence had been put forward by either party.
15. The tribunal used its own knowledge and experience. The tribunal is of the view that the rent agreed is not significantly higher than the rent which the landlord might reasonably be expected to obtain under the tenancy. The tribunal therefore has no jurisdiction to make a determination of the rent.

Name: A P Harris LLM FRICS FCI Arb Valuer Chair **Date:** 28 July 2021

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 (Lands Chamber).

Housing Act 1988

22 Reference of excessive rents to [F1appropriate tribunal].

(1) Subject to section 23 and subsection (2) below, the tenant under an assured shorthold tenancy F2. . . may make an application in the prescribed form to [F3the appropriate tribunal] for a determination of the rent which, in [F4the appropriate tribunal's] opinion, the landlord might reasonably be expected to obtain under the assured shorthold tenancy.

(2) **No application may be made under this section if—**

(a) the rent payable under the tenancy is a rent previously determined under this section; F5. . .

[F6(aa)the tenancy is one to which section 19A above applies **and more than six months have elapsed since the beginning of the tenancy** or, in the case of a replacement tenancy, since the beginning of the original tenancy; or]

(b)the tenancy is an assured shorthold tenancy falling within subsection (4) of section 20 above (and, accordingly, is one in respect of which notice need not have been served as mentioned in subsection (2) of that section).

(3)**Where an application is made** to [F7the appropriate tribunal] under subsection (1) above with respect to the rent under an assured shorthold tenancy, [F8the appropriate tribunal] **shall not make such a determination as is referred to in that subsection unless they consider—**

(b)that the rent payable under the assured shorthold tenancy in question is significantly higher than the rent which the landlord might reasonably be expected to be able to obtain under the tenancy, having regard to the level of rents payable under the tenancies referred to in paragraph (a) above.

(4)Where, on an application under this section, [F9the appropriate tribunal] make a determination of a rent for an assured shorthold tenancy—

(a)the determination shall have effect from such date as [F10the appropriate tribunal] may direct, not being earlier than the date of the application;

(b)if, at any time on or after the determination takes effect, the rent which, apart from this paragraph, would be payable under the tenancy exceeds the rent so determined, the excess shall be irrecoverable from the tenant; and

(c)no notice may be served under section 13(2) above with respect to a tenancy of the dwelling-house in question until after the first anniversary of the date on which the determination takes effect.

(5)Subsections (4), (5) and (8) of section 14 above apply in relation to a determination of rent under this section as they apply in relation to a determination under that section and, accordingly, where subsection (5) of that section applies, any reference in subsection (4)(b) above to rent is a reference to rent exclusive of the amount attributable to rates.

[F11(5A)Where—

(a)an assured tenancy ceases to be an assured shorthold tenancy by virtue of falling within paragraph 2 of Schedule 2A to this Act, and

(b)at the time when it so ceases to be an assured shorthold tenancy there is pending before [F12the appropriate tribunal] an application in relation to it under this section,

the fact that it so ceases to be an assured shorthold tenancy shall, in relation to that application, be disregarded for the purposes of this section.]

[F13(6)In subsection (2)(aa) above, the references to the original tenancy and to a replacement tenancy shall be construed in accordance with subsections (6) and (7) respectively of section 21 above.]

Textual Amendments

F1Words in s. 22 substituted (1.7.2013) by The Transfer of Tribunal Functions Order 2013 (S.I. 2013/1036), art. 1, Sch. 1 para. 86(a) (with Sch. 3)

F2Words in s. 22(1) repealed (28.2.1997) by 1996 c. 52, ss. 104, 227, Sch. 8 para. 2(5), Sch. 19 Pt. IV; S.I. 1997/225, art. 2 (with Sch.)

F3Words in s. 22(1) substituted (1.7.2013) by The Transfer of Tribunal Functions Order 2013 (S.I. 2013/1036), art. 1, Sch. 1 para. 86(b)(i) (with Sch. 3)

F4Words in s. 22(1) substituted (1.7.2013) by The Transfer of Tribunal Functions Order 2013 (S.I. 2013/1036), art. 1, Sch. 1 para. 86(b)(ii) (with Sch. 3)

F5Word in s. 22(2)(a) repealed (28.2.1997) by 1996 c. 52, s. 227, Sch. 19 Pt. IV; S.I. 1997/225, art. 2

F6S. 22(2)(aa) inserted (28.2.1997) by 1996 c. 52, s. 100(2); S.I. 1997/225, art. 2 (with Sch.)

F7Words in s. 22(3) substituted (1.7.2013) by The Transfer of Tribunal Functions Order 2013 (S.I. 2013/1036), art. 1, Sch. 1 para. 86(c)(i) (with Sch. 3)

F8Words in s. 22(3) substituted (1.7.2013) by The Transfer of Tribunal Functions Order 2013 (S.I. 2013/1036), art. 1, Sch. 1 para. 86(c)(ii) (with Sch. 3)

F9Words in s. 22(4) substituted (1.7.2013) by The Transfer of Tribunal Functions Order 2013 (S.I. 2013/1036), art. 1, Sch. 1 para. 86(d)(i) (with Sch. 3)

F10Words in s. 22(4) substituted (1.7.2013) by The Transfer of Tribunal Functions Order 2013 (S.I. 2013/1036), art. 1, Sch. 1 para. 86(d)(ii) (with Sch. 3)

F11S. 22(5A) inserted (28.2.1997) by 1996 c. 52, s. 104, Sch. 8 para. 2(6); S.I. 1997/225, art. 2 (with Sch.)

F12Words in s. 22(5A)(b) substituted (1.7.2013) by The Transfer of Tribunal Functions Order 2013 (S.I. 2013/1036), art. 1, Sch. 1 para. 86(e) (with Sch. 3)

F13S. 22(6) inserted (28.2.1997) by 1996 c. 52, s. 100(3); S.I. 1997/225, art. 2 (with Sch.)