



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

Case reference : **Lon/00BK/MNR/2021/0023**

Property : **Flat 5 21 Devonshire Terrace
London W2 3DW**

Applicant : **Mr Igor Stephanovic**

Representative : **Mick Beirne Housing Adviser,
Westminster City Council**

Respondent : **Fairdale Property Trading Ltd**

Representative : **Collins Benson Goldhill LLP
Solicitors**

Type of application : **Section 13 Housing Act 1988**

Tribunal member(s) : **Judge D I Jagger MRICS**

Date of the decision : **7th June 2021**

Date of reasons : **25th June 2021**

REASONS (HOUSING ACT 1988)

Decision of the tribunal

- (1) The Tribunal determines that the rent that the property in its current condition might reasonably be expected to achieve in the open market under an assured tenancy is **£372 per week**

Background

1. The tenant lives in the property as an assured periodic tenant since 1st May 1990. On 7th October 2020 the landlord served a notice pursuant to section 13 of the Housing Act 1988 seeking to increase the rent from £290 to £456 per week effective from 1st December 2020.
2. By an application dated on the 22nd November 2020 the tenant referred that notice to the tribunal for a determination of the market rent.

Submissions

3. Written representations were received from Mr Edward Blakeney of Collins Benson Goldhill on behalf of the landlord. Firstly, he provided detailed submissions, evidence and authorities confirming the Notice provides an appropriate date for the start of the new rent and is therefore valid and effective. Next, the landlord relied on four comparable lettings in the immediate area which ranged from £495-£558 per week. The key comparable here, appeared to be the third which was a three bedroom first floor flat in Devonshire terrace, which has a good specification with balcony and furnished.
4. The applicants representative firstly stated that the tribunal do not have jurisdiction to determine a market rent under the Housing Act section 14. In essence, this conclusion is reached because *'the notice served contained an incorrect date/day for when the proposed rent is to take effect therefore the notice served is invalid.* Secondly, in order to consider the valuation of the proposed market rent, the tenant provided two comparables, namely Hereford Road W2 and Praed Street , it is stated each property had two bedrooms and rents ranged from £300-£340 per week. Unfortunately, the tribunal is unable significant reliance on this evidence as there is a complete lack of information, such as agents details, condition, and time and nature of the letting. In addition, the tenant provided submissions in connection with the condition of the property which confirmed the single glazed windows were suffering from rot and difficult to operate, the bathroom was upgraded and adapted in 2019, following a grant from Westminster City Council, there is defective plaster and the flat has not been decorated/refurbished since occupation. This evidence was partially contested by the landlords representative.

Inspection

5. Due to the current restrictions the tribunal did not inspect the property and relied on information provided by the parties and its expert knowledge. The property is a purpose built self contained ground floor two bedroom flat forming part of a Grade II listed four storey building with stucco elevations under a mansard roof with one living room, kitchen, and bathroom/lavatory. The property is located in a central London area convenient to local amenities and Paddington station.

The Law

6. The rules governing a determination are set out in section 14 of the Housing Act 1988. In particular, the tribunal is to determine the rent for each flat at which the property might reasonably be expected to be let in the open market by a willing landlord under an assured tenancy, subject to disregards in relation to the nature of the tenancy (i.e. it being granted to a “sitting tenant”) and any increase or reduction in the value due to the tenant’s improvements or failure to comply with the terms of the tenancy. In the absence of any evidence to the contrary, the tribunal has proceeded on the basis that the landlord is responsible for repairs to the structure, exterior and any installations pursuant to section 11 of the Landlord and Tenant Act 1985 and the tenant for interior decoration.

Jurisdiction

- 7 Firstly, the tribunal has to decide whether it has jurisdiction, in order to determine the market rent. Having considered the evidence provided by both parties, the tribunal prefers the evidence put forward by the landlord and as a subsequence considers the notice to be valid and effective. This is considered to be a weekly tenancy and the precise starting day is not relevant

The valuation

- 8 Having carefully considered all of the evidence the Tribunal considers that the rent that would be achieved in good condition with modern amenities would be £413 per week This is based upon the evidence provided by each party and greater weight was placed on the landlords comparable evidence with particular regard to Devonshire Terrace where an adjustment was made.
9. That however is the rent that would be achieved if the property was let in good condition with all modern amenities. Based upon the evidence provided to the Tribunal we consider that that the rent should be reduced by 10% (£41) to reflect the condition of the windows, plaster repairs, no white goods and terms of the tenancy. Our deduction reduces the rent to a figure of **£372 per week**
- 10 We have not made any deduction to reflect the decorative state of the property because this is the tenants responsibility under the term of the letting.

- 11 Section 14 (7) of the Housing Act 1988 states that the rent set by the tribunal will apply from the date specified in the notice unless it appears to the *tribunal that would cause undue hardship to the tenant*. The tribunal considers there will be undue hardship caused by the proposed rent increase and, therefore, the rent determined by the tribunal is to take effect from the date of the Tribunals decision , being 7th June 2021.

Name: Judge D Jagger

Date: 25th June 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).