



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

Case Reference : **LON/00AC/MNR/2021/0159
P:PAPERREMOTE**

Property : **19 Woodville Road London NW11 9TP**

Applicant : **Miss Eunice Molina**

Respondent : **Mr Don Kaufman**

Date of Application : **18th September 2021**

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

Tribunal : **Mark Taylor MRICS**

**Date and venue of
Determination** : **16th December 2021
Paper remote.**

DECISION

The market rent as at 1st October 2021 is £330 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 on the papers. The documents that the tribunal were referred to are in the referral and separate submissions, with no bundle. The contents of these documents have been noted. The order made is described below.

Background

1. On 18th September 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, dated 29th August 2021 proposed a rent of £347.50 per week with effect from 1st October 2021.
3. The tenancy is a periodic tenancy which commenced on 1st June 2007.
4. Directions were issued by the tribunal on 7th October 2021. Due to Covid 19 restrictions both parties confirmed they were content for the matter to be dealt with on the papers.
5. Prior to the hearing the Tribunal received written representations with a number of photographs and details of comparable properties from the tenant. The landlord also made written representations including market commentary, matters relating to Housing Benefit claim and some factual clarifications concerned with a previous decision of this tribunal in respect of the determination of the existing market rent (LON/00AC/MNR/2020/0073).

The Evidence

6. Mr Kaufman referred to a web update including a market commentary by Messrs Benham and Reeves which was essentially that falls occurring in rental values in London during Covid 19 pandemic, whilst variable, had now effectively recovered to pre -pandemic levels. He did not submit any specific comparable properties but said that there were no 2 bed flats available in the NW11 postcode below 1600 pcm (£369 pw), let alone on the Ground floor and with a garden. In his opinion this justified the rent proposed at the previous review of £355 pw. He also made reference to the level of Housing benefit received historically by the tenant. He also explained that rent arrears had accrued which necessitated a County Court decision. Finally raised a number of points regarding the description of the accommodation by the previous tribunal and also, whilst acknowledging the restrictive alienation clause, explaining in practise that the tenant's son had previously lived there and that he would give consent if the tenant wished to seek someone to share the property with.
7. Ms Molina said she had made some improvements to the property including decoration and carpeting. Also, that the garden was used by others at times as an accessway. In addition to commenting on difficulty affording the current rent, she submitted six comparable properties over NW2, N3, NW4 and NW11 ranging from £260 -£290 pw for 1- and 2-bedroom flats, although it was not entirely clear which were which in the screen shots provided.

The Accommodation

8. The Tribunal viewed the locality via google street view. It is situated in a residential locality of inter war-built houses, although the subject property is not generally typical of neighbouring properties appearing to have a flat roof behind a parapet. External decorations were at the time of the photograph in need of attention. There is limited off street parking /forecourt but it not clear to which, if any, of the flats this is demised or if it is used in common.
9. The flat is located on the Ground floor and has two rooms together with a kitchen /diner, Bathroom, separate WC and rear garden. The flat has the benefit of double glazing and central heating. The white goods are the landlords together with furnishings of a book case, chest of drawers, sofa and table.
10. The arrangement of the property is not ideal as a two bed, for family occupation, given the limited space that is provided in the kitchen/ diner as the only other living room.

The law

11. 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.
12. 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

13. In coming to its decision, the tribunal had regard to the parties' submissions and the member's own general knowledge of market rent levels in the area.
14. Generally, the majority of properties available on the market are of a higher decorative standard than the subject property and the arrangement of the accommodation, as discussed above, is more comparable to a generous one bed property. Further the restrictive alienation clause would likely to have a negative effect on the attractiveness to the market.

The decision

15. The tribunal concluded that the rent at which the property might reasonably be expected to be let on the open market as at the 1st October 2021 at £330 per week.

Chairman: Mark Taylor MRICS

Dated: 16th December 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 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....