



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

Case reference : **LON/00AU/MNR/2021/0089**

HMCTS CODE ; **Video Hearing V**

Property : **30 Whistler Street, London N5
1NH.**

Applicant : **Ms. T. Bayley.**

Representative : **In person.**

Respondent : **Network Homes Housing
Association**

Representative : **Mr. Culling.**

Type of application : **Decision under S.13 Housing Act
1988.**

Tribunal member(s) : **Ms. A. Hamilton-Farey LLB, FRICS**

Date of decision : **12 July 2021
Date of Reasons: 21 July 2021.**

DECISION AND REASONS

Covid-19 pandemic: description of hearing

This has been a remote video hearing which has been consented to/not objected to by the parties. The form of remote hearing was V: Video Remote. A face-to-face hearing was not held because it was not practicable, and all issues could be determined during a remote hearing. The tribunal was provided with the Notice of Increase and submissions from the tenant, the landlords also made submissions and provided evidence from Rightmove of comparable property rents in the vicinity of the subject property.

Decision:

The Tribunal determines the market rent for the property in its current condition to be £413.64 per week, exclusive of council tax and water rates. The determination takes effect from 12 July 2021. The reasons for the tribunal's decision are below.

Background:

1. By application dated 22 March 2021, the tenant, Ms. Bayley, referred a Notice of Increase in Rent under S.13 of the Housing Act 1988 to the tribunal.
2. Directions were issued on 19 May 2021 that required the parties to provide copies of any documents on which they wished to rely, and a hearing was subsequently listed for 12 July 2021.
3. The landlord served a S.13 Notice to increase his rent with effect from 5 April 2021 from £376.04 per week to £413.64 per week.

The Tenant's Application:

4. Ms. Bayley said in her evidence that she had lived in the property since 2006 and was the carer for her daughter. She said that the property was a 3-bed maisonette with garden and not a house as maintained by the respondents.
5. She said that for the first five years of the tenancy her rent had remained stable, but since then it had increased each year, but that it had recently been discovered that she had been wrongly charged the rental amount since the start of the tenancy, and the respondents had refunded the local authority their housing benefit/universal credit paid in error but had not yet refunded her the contributions she had made towards the rent. This is not a matter for this tribunal but is something that the parties should be able to resolve between themselves.
6. In addition, she referred to a friend who lived two roads away from her who was a tenant of the respondents but only paid £610.00 per calendar month, and she thought that her rent was therefore too high.

7. She highlighted the fact that she had carried out improvements to the property by providing oak flooring, carpets, a cooker, curtains and blinds. She also said that although the respondents said that parking was included within the tenancy, it was in fact paid for separately by her and not included in the weekly rent. She said that the property had not been maintained externally by the landlord for many years, nor had any improvements been carried out by them internally.
8. She commented that the comparable properties supplied by the respondent were not really comparable and that there were large variations in rent depending on where in the Borough one lived. She provided no comparables herself, except for the £610.00 referred to above
9. When asked about financial hardship, she informed the tribunal that the increase in rent would cause her financial hardship and she felt that any increase should take effect on the day of the hearing and not be back-dated.

The Respondent's Response:

10. Mr. Culling on behalf of the landlord said that the property was not owned by Network Homes, but was held under a lease from a private individual and that the rent was set to meet their contractual obligations with the landlord as well as those with Ms. Bayley.
11. He referred to the comparables and suggested that the market rent was between £575.00 and £750.00 per week. The tribunal noted that two of the properties were houses and one a 3-bed flat in Highbury.
12. Mr. Culling accepted that to achieve those rents a landlord would have a fully modernised property with white goods, curtains and carpets/wooden flooring and that these had not been supplied. He said that Network attempted to let at below the Local Housing Allowance which in this case was £441.86 per week, and that they were satisfied that this would be the rent that the property would command in the market.

The Tribunal's Determination:

13. The tribunal is satisfied that the rent sought by the landlord is within the Local Housing Allowance which might be an indicator of the market rent for a social housing property, and that on the open market the rent would probably be higher.
14. In the circumstances, the tribunal sets the market rent at £413.64 per week, but taking into consideration the tenant's financial hardship, delays the rent increase until 12 July 2021. This will mean that no further rent increases can be implemented until at least 12 months after this date.

Name: Aileen Hamilton-Farey **Date:** 21 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).

THE LAW:

S.13 The Housing Act 1988. – Increases of rent under assured periodic tenancies:

13(1); This section applies to –

- (a) A statutory periodic tenancy other than one which, by virtue of paragraph 11 or paragraph 12 in Part I of Schedule 1 to this Act, cannot for the time being be an assured tenancy; and
- (b) Any other periodic tenancy which is an assured tenancy, other than one in relation to which there is a provision, for the time being binding on the tenant, under which the rent for a particular period of the tenancy will or may be greater than the rent for an earlier period.

13(2) For the purpose of securing an increase in the rent under a tenancy to which this section applies, the landlord may serve on the tenant a notice in the prescribed form proposing a new rent to take effect at the beginning of a new period of the tenancy⁶ specified in the notice, being a period beginning not earlier than –

- (a) The minimum period after the date of the service of the notice; and
- (b) Except in the case of a statutory periodic tenancy –
 - a. In the case of an assured agricultural occupancy, the first anniversary of the date on which the first period of the tenancy began;
 - b. In any other case, on the date that falls 52 weeks after the date on which the first period of the tenancy began; and
 - c. If the rent under the tenancy has previously been increased by virtue of a notice under this subsection or a determination under S.14
 - i. In the case of an assured agricultural occupancy, the first anniversary of the date on which the increased rent took effect;
 - ii. In any other case, the appropriate date.

(3) the minimum period referred to in subsection (2) above is;

- (a) in the case of a yearly tenancy, six months;
- (b) in the case of tenancy is less than a month, one month, and
- (c) in any other case, a period equal to the period of the tenancy.

(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, in respect of council tax 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.

S.14 Determination of rent by the tribunal:

(1) Where under subsection (4)(a) of Section 13, a tenant refers to the appropriate tribunal a notice under subsection (2) if that section, the appropriate tribunal shall determine the rent at which, subject to section (2) and (4) above, the appropriate tribunal 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 notices relates; and

(d) in respect of which the same notices, if any, have been given under any of the grounds 1 to 5 of Schedule 2 to the 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 cost 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.

