

Notice of the Tribunal Decision and Register of Rents under Assured Periodic Tenancies (Section 14 Determination)

Housing Act 1988 Section 14

Address of Premises

69 Montagu Mansions, London, W1U 6LE

The Tribunal members were

Mr A Harris LLM FRICS FCIArb
Mr O Miller BSc

Landlord

Bromley Property Investments Limited

Address

First Floor, Citygate, St. James Boulevard, Newcastle Upon Tyne, Tyne And Wear, NE1 4JE

Tenant

Mr Gary Lewis

1. The rent is:£

4550.00

Per

Quarter

(excluding water rates and council tax but including any amounts in paras 3)

2. The date the decision takes effect is:

23 March 2021

***3. The amount included for services is/is —negligible/not applicable**

0

Per

***4. Service charges are variable and are not included**

5. Date assured tenancy commenced

1966

6. Length of the term or rental period

quarterly

7. Allocation of liability for repairs

S11 Landlord and Tenant Act 1985

8. Furniture provided by landlord or superior landlord

none

9. Description of premises

A two-bedroom 1st floor flat in a mansion block with partial central heating and no lift

Chairman

A Harris

Date of Decision

15 July 2021



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

Case reference : **LON/00BK/MNR/2021/0057**

Property : **Flat 69, Montagu Mansions,
London W1U 6LE**

Applicant : **Mr G Lewis**

Representative : **Mr G Pack BSc FRICS**

Respondent : **Bromley Property Investments Ltd**

Representative : **None**

Type of application : **Market Rent under s13 & 14 of the
Housing Act 1988**

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

**Date and venue of
hearing** : **15 July 2021 at 10 Alfred Place,
London WC1E 7LR**

Date of decision : **15 July 2021**

DECISION

Decisions of the tribunal

- (1) The tribunal determines that the market rent is £4550.00 per quarter.
- (2) 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 13 & 14 of the Housing Act 1988 following the service of a notice by the landlord dated 22 October 2020 proposing a rent increase from £6350 per quarter to £6500 per quarter with effect from 23 March 2021 even though the rent of £6350 per quarter from 2020 has not been confirmed by this tribunal. In response to a question from the tribunal Mr Pack confirmed that no issue would be taken with regard to the validity of the landlord's notice.

Background

2. On 8 March 2021 Mr Pack on behalf of the tenant, Mr Lewis, made an application to this tribunal challenging the increase. Directions were made on 6 May 2021 setting a hearing date in the 14 days from 28 June 2021. Due to the Covid pandemic the 2020 case was not heard when originally listed and the case was eventually relisted for hearing with this appeal.
3. The tribunal has received no representations from the landlord.
4. An inspection was not possible on this occasion and the tribunal relied on the evidence provided and the previous decision which was in evidence. There was no appearance by the landlord. In the absence of any other evidence the tribunal relies on the description of the property provided by the tenant's expert.

The property

5. Montague Mansions consists of approximately 150 flats in several Mansion blocks between Baker Street and Gloucester Place and dates from the early 1900s. There are no gardens or outside space within the flats.
6. The property is a two bedroom located on the 1st floor and there is no lift.
7. The flat is said to be in reasonable condition and the fittings are still the original dating from the time Mr Lewis moved into the property with his parents in 1966. At that time the property was let as a shell and all furnishings carpets and white goods have been provided by the tenant.

8. There is partial central heating with one radiator in the hall and another in the lounge
9. The flat has an area of 793 ft.² of which 591 ft.² relates to the living room bedrooms and kitchen area.

The landlord's evidence

10. The landlord has supplied no evidence.

The tenant's evidence

11. Expert evidence on behalf of the tenant was given by Mr Graham Pack BSc FRICS. Mr Pack has appeared on behalf of the tenant at the hearings for each year from 2016 to 2019. In each of those years the market rent remained at £5850 per quarter based on a rent for the property on an Assured Shorthold Tenancy at £9000 per quarter reduced by 35% to take account of the lack of modernisation, white goods and the terms of the tenancy.
12. The Landlord has served a notice of increase proposing to raise the rent to £6350 per quarter but has provided no evidence.
13. Mr Pack has provided details of a number of comparable flats all within the same block.
14. **107 Montague Mansions**
15. This flat was originally let in February 2017 at £8320 per quarter. It was renewed at the same rent in February 2018 in February 2019. In February 2020 the rent reduced to £8125 per quarter and in February 2021 to £7475 per quarter.
16. The flat has an area of 883 ft.². Mr Pack has devalued the quarterly rent to arrive at a rent per square foot which he then applies to the area of the subject property to arrive at an equivalent rent for the subject property of £7482 per quarter in February 2019, £7297 per quarter for February 2020 and £6713 per quarter for February 2021.
17. Mr Pack has adopted the same methodology for each of the comparables listed in the table below.

flat	details	size	rent pq 2020	psf	rent pq 2021	psf
107	App 9	883	£ 8,125.00	£ 9.20	£ 7,475.00	£ 8.47
21	App 10	893	£ 10,335.00	£ 11.57	£ 8,775.00	£ 9.83
76	App 10	1109	£ 9,750.00	£ 8.79	£ 9,100.00	£ 8.21
159	App 12	1000	£ 8,247.00	£ 8.25	£ 7,732.00	£ 7.73
152	App 13	950	£ 8,450.00	£ 8.89	£ 7,475.00	£ 7.87
25	App 14	904	£ 9,555.00	£ 10.57	£ 8,450.00	£ 9.35
127	App 15	743	£ 7,150.00	£ 9.62	£ 6,500.00	£ 8.75
130	App 16	1154	£ 11,700.00	£ 10.14	£ 11,050.00	£ 9.58
115	App 17	772	£ 8,450.00	£ 10.95	£ 6,500.00	£ 8.42
148	App 18	883	£ 9,230.00	£ 10.45	£ -	£ -
55	App 19	814	£ 8,996.00	£ 11.05	£ -	£ -
106	App 20	881	£ 7,995.00	£ 9.07	£ -	£ -

18. it can be seen from the table that rents have declined in the market between 2020 and 2021. Mr Pack takes an average of the rates per square foot to arrive at an average equivalent rent of £6910 per quarter for 2021 and deducting 35% as in the previous tribunal decisions comes to a revised market rent for 23 March 2021 of £4492 per quarter.

The Law

19. The tribunal must first determine that the landlord's notice under section 13(2) satisfied the requirements of that section and was validly served.
20. The Housing Act 1988, section 14 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.
21. In so doing the tribunal, is required by section 14(1), to ignore the effect on the rental value of the property of any relevant tenant's improvements as defined in section 14(2) of that Act. Any improvements made during the previous regulated tenancy are no longer disregarded.

Valuation

22. No rental evidence had been put forward by the landlord.
23. The evidence put forward on behalf of the tenant is substantiated by previous tribunal decisions and letting details of a number of flats of different sizes as shown in column 2 of the table.
24. The tribunal has weighed this evidence and also applied its knowledge and experience and places considerable weight on it.
25. Applying a similar methodology of reaching an average rent for the equivalent floor area the tribunal arrives at a headline figure of £7000 per quarter.

26. The tribunal then considered whether the 35% deduction adopted by previous tribunal is still appropriate as argued for by Mr Pack. This figure has been adopted by successive tribunals and there is no evidence before the tribunal to suggest it is no longer valid. The tribunal therefore makes a deduction of 35%.
27. This results in a net rent for the subject property of £4550.00 per quarter

Effective date

28. Under s14 (7) of the Housing Act 1988 the effective date of the decision would normally be the date shown on the application unless there is hardship to the tenant.
29. The tribunal received no evidence of hardship and therefore the effective date of the decision is 23 March 2021.

Name: A P Harris LLM FRICS FCI Arb
Valuer Chair

Date: 15 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).