



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

Case Reference : BIR/00CW/MNR/2018/0050

Property : 27 Vaughan Road, Willenhall, West Midlands, WV13 3TJ

Applicant : Bishop M.Pearce and Revd.D.Pearce

Respondent : Mrs H. Parekh

Type of Application : Appeal against a notice proposing a new rent under an Assured Periodic Tenancy under section 13(4) of the Housing Act 1988

Tribunal Members : Mr I.D. Humphries B.Sc.(Est.Man.) FRICS
Mr J. Arain

Date and Venue of Hearing : Not Applicable, paper determination

Date of Decision : **4 December 2018**

DECISION

- 1 The rent is determined at £575.00 (Five Hundred and Seventy Five Pounds) per calendar month from 19 September 2018.

REASONS

Introduction

- 2 The tenants, Bishop M.Pearce and Revd.D.Pearce, hold a monthly assured shorthold tenancy of 27 Vaughan Road, Willenhall, West Midlands, WV13 3TJ. The original tenancy had been for a term of twelve months from 19 August 2017 at £525.00 per calendar month.
- 3 On 18 August 2018 the landlord served notice of increase under section 13(2) of The Housing Act 1988 proposing a rent of £600.00 per calendar month to take effect on 19 September 2018. Neither the previous nor proposed rents included any amounts for Council Tax, water rates or fixed service charges.
- 4 On 6 September 2018 the tenant applied for the rent to be determined by the First-tier Tribunal Property Chamber.
- 5 On 29 October 2018 the Tribunal inspected the property and determined the rent at £575.00 p.c.m. with effect from 19 September 2018.
- 6 On 5 November 2018 the Tribunal received a request for Reasons from the tenants.

The Law

- 7 Section 14 of The Housing Act 1988 states:

'(1) Where, under subsection (4)(a) of section 13 above, 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;...'*

'(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 the immediate landlord ...*

- 8 The jurisdiction of the Rent Assessment Committee was transferred to the First-tier Tribunal (Property Chamber) from 1st July 2013.

Facts Found

- 9 The Tribunal inspected the property on 29 October 2018 with the tenants. The landlord was not present or represented.
- 10 The property comprised a traditional 1960s two storey semi-detached house in a well established residential area. The accommodation comprised an enclosed porch, hall, through lounge / dining room and kitchen on the ground floor with a landing, three bedrooms and bathroom on the first floor. Outside, there was a front garden with room to park two cars, a back garden with lawn and dilapidated brick garage.
- 11 The house was of brick and tile construction with decorative cedar board cladding and rendering to the rear elevation.
- 12 It was in fair internal condition with double glazing and central heating. However, a gas fire in the living room had been condemned by a Gas Safe Engineer and the tenants advised that there were draughts around the double glazed windows as they had been inadequately fitted. The rear bedroom was particularly affected.

Submissions

- 13 Neither of the parties requested a Hearing. They sent written submissions and the case was determined on paper.
- 14 The Applicants' Case
In summary, the Applicants made eight points:
 - 1 there were draughts around the double glazing;
 - 2 the central heating boiler was inefficient;
 - 3 the gas fire in the living room had been condemned;
 - 4 there was insufficient heating in the Kitchen for a room of its size;
 - 5 one of the light switches was only working intermittently;
 - 6 there was inadequate heating in the bathroom;
 - 7 the landlord's managing agent had sent an email to the effect that he considered the proposed increase to be unreasonable which was included in the submitted papers;
 - 8 the Applicants referred to three properties advertised to let on the open market for rental comparison:
 - i) Vaughan Road, Willenhall
A similar three bedroom house next door to the subject property advertised at an asking rent of £600 per calendar month. It had a fitted kitchen, through lounge, central heating and double glazing. The tenants considered the house was better than theirs as it had more modern double glazing, kitchen and bathroom suites.
 - ii) Harrowby Place, Willenhall
A 1930s three bedroom semi-detached house with very little other information provided which was advertised at £675 per calendar month.
 - iii) Haley Street, Willenhall
A modern, possibly 1980s, three bedroom semi-detached house with garage advertised at £550 per month.

15 The Respondent's Case

The Respondent Landlord submitted that:

- 1 a three bedroom semi-detached house with drive of this quality in the area should have let for £625.00 per month and
- 2 the landlord had a mortgage and tax to pay.

Decision

- 16 The Tribunal considered the property and its accommodation and found it to be the sort of property that would be in demand if advertised vacant and to let in the open market. It offered modern three bedroom accommodation with central heating and double glazing, albeit not to the highest specification and the Tribunal accepted the points made by the tenants regarding the standard of window fitting, but overall the house was in fair order. The garage was dilapidated but there was ample street parking available when the Tribunal inspected and off-road parking to the front of the house.
- 17 The rent achieved a year ago was £525.00 per calendar month but rents in the market had risen since then. The Tribunal considered the Landlord's asking rent of £625.00 pcm to be optimistic bearing in mind that the neighbouring house, a better specification according to the tenants, was openly advertised at £600.00 pcm and set the ceiling. Accordingly, taking the parties' points into consideration and applying its own general knowledge of the market, the Tribunal determined the rent at £575.00 pcm for the purposes of section 14 of The Housing Act 1988.

I.D. Humphries B.Sc.(Est.Man.) FRICS
Chairman

Appeal

If either party is dissatisfied with this decision an application may be made to this Tribunal for permission to appeal to the Upper Tribunal, Property Chamber (Residential Property) on a point of law only. Any such application must be received within 28 days after the decision and accompanying reasons have been sent to the parties (Rule 52 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013).