



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

Case Reference : **BIR/00CN/MNR/2018/0053**

Property : **14 North Gate, Harborne, Birmingham B17
9EP**

Applicant : **Mrs Christine Thompson**

Respondent : **BPT(Residential Investments)Limited**

Type of Application : **Application referring a notice proposing a
new rent under an Assured Periodic Tenancy
s13(2) Housing Act 1988**

Tribunal : **Tribunal Judge P. J. Ellis.
Tribunal Member R P Cammidge FRICS.**

Date of Hearing : **3 December 2018**

Date of Decision : **2 January 2019**

DECISION

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The new rent determined by the Tribunal with effect from 8 October 2018 is £183.00 per week.

Introduction

1. The Applicant Mrs Christine Thompson has occupied 14 North Gate Harborne Birmingham B17 9EP (the Property) since 6 April 1992 pursuant to an agreement between the Applicant and Harborne Tenants Limited. At a date not relevant to these proceedings the Respondent BPT(Residential Investments)Limited of First Floor, Citygate, St James Boulevard, Newcastle upon Tyne NE1 4JE (the Respondent) acquired the Property but did not issue a new tenancy agreement to the Applicant. It is not disputed that the Property is let to the Applicant on an assured periodic tenancy.
2. On 6 September 2018 the Respondent served the Applicant with a notice in prescribed form proposing a new rent of £190.00per week in place of the existing rent of £175.00per week. The proposed new rent is to take effect from 8 October 2018.
3. On 24 September 2018 the Applicant issued these proceedings referring the Respondent's notice to the Tribunal for determination under s14 Housing Act 1988 (the Act).
4. On 3 December 2018 the Tribunal inspected the Property and made its determination. The Respondent has now asked for the Tribunal's reasons for its determination.

Inspection

5. The Property is a two storey three bedroom terraced house constructed of brick and tile with gardens front and rear. The front entrance door opens onto a lobby with staircase to upper floor. The ground floor comprises a front sitting room with gas fire and radiator. To the rear is a dining room with galley kitchen off it. A rear door from the dining room leads outside to the rear garden via a small lobby. A sitting room on the ground floor was converted to a bathroom before the Applicant took up residence.

6. All carpets and curtains and white goods were supplied by the Applicant.
7. On the upper floor there is a large front bedroom with a radiator. There is a second bedroom presently furnished with a single bed but large enough for a double bed. The third bedroom is small but sufficient for a single bed. A w/c is located on the upper floor. The gas boiler is in the toilet room.
8. The windows are single glazed and many of the frames are showing signs of rot. The house has been rewired recently but at the tenant's request redecoration has not yet taken place.
9. Exterior inspection revealed the need for some repair and maintenance work including roof repairs to ridges and replacing slipped and missing tiles and maintenance to the rainwater goods.

Statutory Framework

10. S14 of the Housing Act 1988 provides that the Tribunal shall determine the rent at which the Property might reasonably be expected to be let at the valuation date in the open market by a willing landlord under an assured tenancy which (in this case) is an assured periodic tenancy on the same terms (except as to rent) as those of the subject tenancy, but disregarding (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 the tenant otherwise than in pursuance of an obligation to his immediate landlord; and (c) any reduction in value due to a failure by the tenant to comply with any terms of the tenancy. Under subsection (4) the rent does not include any service charge as defined under section 18 of the Landlord and Tenant Act 1985.

Submissions

11. The Applicant did not present any comparables. Her knowledge of other properties in the area was limited to the occasional social visit to near neighbours' houses.
12. The Respondent is an experienced landlord well used to the principles of rent determination. The Respondent asserted the property is in good condition given its type and age in a sought after location within Harbourne. The Respondent asked the Tribunal to take into account *Spath Holme Ltd v Greater Manchester and Lancashire Rent Assessment Committee QBD (Times 13-Jul-94, (1994) 27 HLR 243)* and *Curtis v London Rent Assessment Committee [1997] EWCA Civ 2453, [1999] QB 92* and one other case when making its determination.
13. It then made submissions regarding some comparable properties within the same geographical location and comparable market tenancies available through local agents. The comparable evidence was two properties both on West Pathway a short distance away. One of the comparables was a mid terraced property the other an end terrace property both with three bedrooms.
14. The mid terrace property was offered at £1200pcm (£276.92pw), the end terrace property offered at £1250pcm (£288.46 pw).
15. The Respondent conceded that there were differences between the comparables and the subject Property in that they had:
 - a. Modernised kitchen
 - b. White goods and appliances
 - c. Conservatory
 - d. Floor coverings
 - e. Feature fireplaces
 - f. Modernised first floor bathroom
 - g. Loft conversion
 - h. General modernisation throughout.

16. The Respondent used a theoretical figure of £10pw for the modernisation of the kitchen, conservatory, modernised first floor bathroom, loft conversion and a general modernisation throughout and the theoretical figure of £7 pw for the white goods/appliances, floor coverings and feature fireplaces in order to support a contention that the rent proposed of £190.00pw was £15.92pw cheaper than the lowest market tenancy within 1/2 mile of the Property.

Decision

17. The Applicant was unable to provide any information regarding rents in the near neighbourhood of the Property. The information given by the Respondent was of limited help because the properties referred to were in better condition and incorporated superior layouts than the subject Property by reason of recent improvements. The Respondent conceded as much in its submission.

18. The Tribunal identified other properties within 1/4 mile of the Property at Wentworth Gate offered at £995pcm and Highbrow offered at £1000pcm.

19. Inspection of the Property indicated it was in need of substantial modernisation. It had been rewired within the last two years but the Tribunal was satisfied the rewire was needed as a matter of maintenance rather than improvement.

20. The Respondent is proposing an increase of £15.00 per week which represents an increase of between 8.5 and 9%. Although the Property is in a sought after area the Tribunal is not satisfied that a tenant would offer £1200.00pcm as asserted by the Respondent. Moreover, the property even if modernised suffers from a poor layout having a ground floor bathroom and also a small galley style kitchen. In the view of the Tribunal these factors would have a negative impact on the rental value of the property.

21. Having regard to the condition and layout of the Property but recognising its situation in a sought after area the Tribunal has determined market rent for the Property is £970.00pcm. From that sum the Tribunal has allowed

Double Glazing	45.00
White goods for kitchen	20.00
Kitchen refurbishment	17.00
Bathroom refurbishment	12.50
Repairs	11.00
Fittings carpets and curtains	35.00
Total before liability for decorations	<u>140.50</u>
Add 5% existing rent for decorations	38.00
Total deductions per month	<u>178.50</u>

22. The market rent is determined by the Tribunal as £970.00pcm less £178.50. That is £791.50pcm or £182.65 rounded to £183.00pw with effect from 8 October 2018.

Appeal

23. If either of the parties is dissatisfied with this decision they may apply to this Tribunal for permission to appeal to the Upper Tribunal (Lands Chamber). Any such application must be received within 28 days after these written reasons have been sent to them under 9 rule 52 of The Tribunal Procedure (First-tier Tribunal)(Property Chamber) Rules 2013.

Tribunal Judge PJ Ellis