



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

Case Reference : **BIR/17UH/MNR/2018/0062**

Property : **2/4 Union Road New Mills High Peak
Derbyshire SK22 3ES**

Landlord : **Maryland Securities Ltd**

Tenant : **Noel W Smith**

Type of Application : **An Application for a Determination under
Section 14 of the Housing Act 1988**

Tribunal Members : **V Ward BSc Hons FRICS
P Hawksworth Lawyer**

Date of Decision : **30 January 2019**

Date of Statement of Reasons : **7 February 2019**

STATEMENT OF REASONS

BACKGROUND

1. By way of a notice dated 28 November 2018, Maryland Securities Ltd (“the Landlord”), sought to increase the rental in respect of 2/4 Union Road, New Mills, High Peak, Derbyshire SK22 3ES (“the Property”) to £150.00 per week under section 13 of the Housing Act 1988 (“the Act”) with effect from 8 January 2019.
2. The tenancy commenced in September 2005 and the rent payable at the time of the notice was £61.00 per week set by the Tribunal in the form of a Rent Assessment Committee from 6 October 2008.
3. In error, the Rent Officer registered rents in September 2013 (£20.00 per week) and October 2016 (£22.00). These registrations have no effect as they were based on the erroneous assumption that the tenancy was regulated when it is in fact an assured tenancy.
4. By an application received on 5 December 2018, Mr Noel Smith, (“the Tenant” of the Property), referred the Notice of increase of rent served by the Landlord to the Tribunal.
5. After consideration of the available evidence and the applicable law, the Tribunal determined a rental of £70.00 per week with effect from 8 January 2019.

THE PROPERTY

6. The Tribunal carried out an inspection of the Property on 21 January 2019. Present at the inspection was the Tenant and his brother Mr Jonathan Smith who also resides in the Property.
7. The Property was found to be a flat situated above a book makers and tanning salon in the centre of New Mills.
8. The accommodation comprises the following:

First floor: hall, kitchen, two reception rooms, two bedrooms and bathroom with full suite. NB The Property could be construed as offering three bedrooms.
9. The property benefits from double glazing. The Property does not benefit from a central heating system, there was night storage heating present in the Property but the Tribunal was advised that this no longer functions. The only heating available to the Tenant was plug in portable heaters.
10. The Property itself was generally in poor condition. The Property has suffered from settlement and there was evidence of cracking to many walls. Kitchen

facilities were basic comprising only of a sink unit. From the evidence presented to the Tribunal it appeared that the Landlord had made efforts to improve the condition of the Property but these had been resisted by the Tenant who appeared satisfied with the condition.

EVIDENCE

11. The Tribunal received written representations from both parties which were copied across accordingly. Additionally, when showing the Tribunal around the Property, the Tenant elaborated on his representations. Both parties requested an oral hearing which was held later that day at Stockport Magistrates Court. The Tenant did not attend the hearing due to the very poor weather (heavy snow made travelling difficult). The Tribunal advised the Tenant that his absence could be excused but that if the Landlord's representatives wanted to question the Tenant it might be necessary to either adjourn the hearing or write to the Tenant with such questions, however, Ms Natashcha Fay employed by the Landlord as a Property Manager was in attendance and had no questions for the Tenant.
12. The representations from the Tenant included a summary of the Property's defects which can be summarised as follows:

- Cracks to numerous walls
- Rotten flooring
- Damaged ceilings and walls
- Insufficient power points
- No fire protection to the staircase
- Water ingress

13. On behalf of the Landlord, Ms Fay made representations both in writing and also at the hearing. These gave background to the tenancy including details of the erroneous rent registrations and also stated that following research on the Zoopla property portal, which indicated rentals for 3 bedroom flats of between £180.00 and £210.00 per week, requested that the Tribunal determine a rental of £150.00 per week for the Property.

THE LAW

14. In accordance with the terms of section 14 of the Housing Act 1988 the Tribunal must determine the rent at which it considers that the subject property might reasonably be expected to let on the open market by a willing landlord under an assured tenancy.
15. In so doing the Tribunal, as required by section 14(1), must ignore the effect on the rental value of the property of any relevant tenant's improvements as defined in section 14(2) of the Act.

VALUATION

16. In the first instance, the Tribunal determined what rent the landlord could reasonably be expected to obtain for the Property if it were let today in the condition that is considered usual for such an open market letting. It did this by using its own general knowledge of the market rent levels in the area of North Derbyshire. Taking all factors into consideration, the Tribunal concluded that the likely market rental would be £110.00 per week.
17. However the Property is not in a condition that could be considered usual. Accordingly to allow for the Property's generally dilapidated condition, the lack of central heating (or any form of fixed heating system) and poor kitchen and bathroom fittings, the Tribunal made a deduction of £40.00 per calendar week.
18. The rent determined by the Tribunal for the purposes of Section 14 was, therefore, £70.00 per week with effect from 8 January 2019.
19. In reaching its determination, the Tribunal had regard to the evidence and submissions of the parties, the relevant law and their own knowledge and experience as an expert Tribunal but not any special or secret knowledge.
20. If either party is dissatisfied with this decision they may apply for permission to appeal to the Upper Tribunal (Lands Chamber) on a point of law only. Prior to making such an appeal, an application must be made, in writing, to this Tribunal for permission to appeal. Any such application must be made within 28 days of the issue of this decision (regulation 52 (2) of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rule 2013) stating the grounds upon which it is intended to rely in the appeal.

V WARD BSc (Hons) FRICS