



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

Case Reference : BIR/00CN/MNR/2019/0004

Property : 36 Towyn Road, Birmingham, West Midlands, B13 9NA

Applicant : Mr Mark Evans

Respondent : P & K Properties Limited

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 D. Douglas

Date and Venue of Hearing : Not Applicable, paper determination

Date of Decision : 4 April 2019

DECISION

- 1 The rent is determined at £115.00 (One Hundred and Fifteen Pounds) per week from 4 February 2019.

REASONS

Introduction

- 2 The tenant, Mr Mark Barry Evans, holds a monthly assured tenancy of 36 Towyn Road, Moseley, West Midlands, B13 9NA, that he has held since 11 October 1993.
- 3 On 21 December 2018 the landlord served notice of increase under section 13(2) of The Housing Act 1988 proposing a rent of £170.00 per week to take effect on 4 February 2019. Neither the previous nor proposed rents included any amounts for Council Tax, water rates or fixed service charges.
- 4 On 25 January 2019 the tenant applied for the rent to be determined by the First-tier Tribunal Property Chamber.
- 5 On 14 March 2019 the Tribunal inspected the property and determined the rent at £115.00 per week with effect from 4 February 2019.
- 6 On 29 March 2019 the Tribunal received a request for Reasons from the landlord.

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 14 March 2019. The landlord attended at the property but was not allowed access by the tenant.
- 10 The property comprises a compact, traditional inner terrace Victorian house located on the eastern fringe of Moseley not far from the A34 Stratford Road. The surrounding area is mainly terraced housing similar in age and character. It is within walking distance of local shops, schools and bus routes to the city centre which is about three miles to the north.
- 11 The accommodation comprises a hall, two reception rooms, kitchen, lobby and bathroom on the ground floor with a landing, two bedrooms and box room accessed through the back bedroom on the first floor. The property is set back from the pavement and has a small enclosed yard to the rear. There is no room for any off road parking but there is street parking on the road frontage.
- 12 The house is two storey brick and slate construction with a two storey brick and slate wing and single storey brick and slate wing to the rear, containing the bathroom.
- 13 There are radiators in the two reception rooms, hall and back bedroom but no heating in the front bedroom or box room. There is double glazing. The accommodation is in basic condition, for example, the kitchen walls are unplastered painted brick, there are minimal kitchen cupboards, the back bedroom ceiling is uneven, the electrical conduit is surface mounted and the bathroom suite dated. Externally, there is flashband over the front bay where the roof joins the front elevation of the house, the fences to both sides of the yard are dilapidated and the slab paving is uneven. The house needs investment to bring it to current standards.

Submissions

- 14 Neither party requested a Hearing. The tenant sent written submissions but the landlord sent no submissions. The case was determined on paper after consideration of the documents before the Tribunal.
- 15 The Applicant's Submission
The Applicant's case can be summarised as follows:

- 1 there has been a history of dispute between the landlord and tenant;
- 2 the front door is difficult to open due to damp ingress caused by a leaking gutter;
- 3 the front door step allows damp ingress to the hall;
- 4 the back door needs repair;
- 5 the central heating system is faulty;
- 6 the double glazing is incorrectly fitted with draughts around window frames;
- 7 the kitchen units are falling apart;
- 8 the kitchen overflow pipe has also fallen apart.
- 9 the following comparable evidence was referred to:

- i) Boscombe Rd., Sparkhill, B11 3RJ
Details were provided of a two bedroom inner terraced house with gas fired central heating and double glazing, available to let for £550 pcm (£126.92 per week)

- ii) Warwick Rd., Tyseley, B11
A two bedroom inner terraced house with central heating and double glazing, available to let for £550 pcm (£126.92 per week)
- iii) Knowle Rd., Sparkhill
A two bedroom inner terraced house available to let for £550 pcm (£126.92 per week) described as 'newly decorated throughout'.
- iv) Sandford Rd., B13
A two bedroom flat advertised at £525 pcm (£121.15 per week).
- v) Yardley Wood Rd., B13 (No particulars submitted)
A two bedroom flat advertised at £475 pcm (£109.61 per week).
- vi) 807 Stratford Rd., B11 (No particulars submitted)
A three bedroom flat advertised at £425 pcm (£98.07 per week).

- 16 The Respondent's Submission
None.

Decision

- 17 The house is in basic condition. It has part central heating but the general standard is poor and below that expected by tenants in the present market. It would let but at a price. In good condition, refurbished, it ought to let for £125 per week on the terms of the tenancy but the Tribunal finds that in present condition its rental value is £115.00 per week.
- 18 The Tribunal therefore determine the rent in accordance with section 14 of The Housing Act 1988 to be £115.00 (One Hundred and Fifteen pounds) per week with effect from 4 February 2019.

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).