



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

Case Reference : **BIR/00CN/MDR/2018/0006**

Property : **81 Cornwall Road, Handsworth,
Birmingham, B20 2HX**

Applicant : **Ms Jessica Benjamin**

Respondent : **Mr Kulwinder Singh Purewal**

**Respondent's
Representative** : **Mr Sinam Singh Purewal**

Type of Application : **Sections 13 and 14 Housing Act 1988**

Tribunal Members : **Judge M K Gandham
Mr N Wint FRICS**

**Date and venue of
Hearing** : **3rd April 2019
Centre City Tower, 5 – 7 Hill Street,
Birmingham B5 4UU**

Date of Decision : **3rd April 2019**

Issue Date : **21 May 2019**

STATEMENT OF REASONS

1. These written reasons have been prepared at the request of Mr Kulwinder Singh Purewal ('the Respondent')
2. These written reasons should be read in conjunction with the Decision of the Tribunal dated 3rd April 2019.

Background

3. Ms Jessica Benjamin ('the Applicant') is a tenant, together with Mr Colin Alhie, of the property known as 81 Cornwall Road, Handsworth, Birmingham, B20 2HX ('the Property') under an assured shorthold tenancy dated 13th June 2010 ('the Tenancy Agreement') for a term of 12 months beginning on 15th June 2010 at a monthly rent of £500.00. The Respondent is the landlord of the Property.
4. On 9th December 2018, the Respondent gave notice to the Applicant, on Form 4, of a proposed new rent of £625 per calendar month (p/cm), in place of the existing charge of £500 p/cm. The starting date for the proposed new rent was 15th January 2019.
5. On 3rd January 2019, the Tribunal received an Application, from the Applicant, referring a notice proposing a new rent. An inspection was arranged for 21st February 2019. The day before the inspection, the Applicant emailed the Tribunal and requested an oral hearing, the Tribunal agreed to this request and a hearing was arranged for 3rd April 2019. The Applicant, Mr Alhie and Mr Sinam Singh Purewal ('the Respondent's Representative') attended both the inspection and hearing.

The Law

6. The relevant provisions in respect of jurisdiction of the Tribunal and determination of a market rent are found in sections 13 and 14 of the Housing Act 1988.

The Inspection

7. The Tribunal inspected the Property on the morning of 21st February 2019. The Property is a typical turn of the century, two storey mid-terraced house in Handsworth, Birmingham. It is of brick construction with a pitched tiled roof.
8. The accommodation comprises an entrance hall, leading to front and rear living rooms with a kitchen to the rear which, in turn, leads to a bathroom. The first floor comprises a hallway, a fair-sized single bedroom and two double bedrooms. The Property also has a small paved yard to the front and benefits from a good-sized garden to the rear.
9. Although structurally the Property appeared to be free from major defect, the Tribunal noted that there was a crack to the internal wall in the rear lounge and parts of the Property were in a very poor condition. In particular, the bathroom walls and ceiling were covered in mildew. Mould

was also visible in the kitchen, where the ceiling paper was peeling alongside the wall paper. The paper was also peeling in each of the bedrooms. In addition: in the bathroom the former flue vent for the boiler had been filled in to a poor standard and the extractor fan did not work; the kitchen was very basic and in need of replacement and complete modernisation; there were no smoke detectors; internal doors had been removed between the hallway and rear lounge and between the rear lounge and staircase; the porch way door did have a key lock, but the door did not close securely and a glass pane was missing from the internal front door.

10. The garden could only be accessed via the door from the bathroom as, although there was also a back door in the kitchen, the Tribunal was advised that it could not be opened as the hinges and frame were in a very poor state of repair and condition. Bolts, rather than keys, secured both of these doors.
11. The rear garden had not been maintained. There were missing fence panels, from which the Tribunal noted that there was a great deal of rubbish in the neighbouring garden. The Respondent's Representative stated that this was the neighbour's boundary and fencing and, consequently, not the Landlord's responsibility to maintain.
12. The Applicant had supplied the washing machine and the fridge.

Submissions

Applicant's submissions

13. The Applicant referred to the fact that that they had not had access to any hot water or heating at the Property for two months during the time the boiler had stopped working (from the end of November 2018 to the beginning of February 2019). The Applicant stated that this, together with the fact that the extractor fan in the bathroom did not work, led to the excessive mildew in the bathroom. She stated that the front door did not lock and that there was a glass panel missing from an internal door. She also stated that the Property had never been fitted with any smoke/fire alarms, that she had never received a gas certificate for the Property and that the electrics were not up to standard. She referred to the fact that the locks to the bathroom and kitchen were inadequate (being bolt locked rather than locked with a key) and that holes in the floorboards had meant that the Property had suffered from pest infestations.
14. The Applicant stated that the Council had carried out an inspection of the Property, under the Housing Act 2004, on 6th February 2019. She provided the Tribunal with a copy of their letter dated 20th February 2019 (the Respondent's Representative confirmed that the Respondent had already received a copy of the correspondence). The letter identified that the electrical consumer unit at the Property may not comply with current British standards and also referred to the mould at the Property and lack of any smoke detectors.

15. The Applicant confirmed that she had been making payments of £550, since January 2019. She stated that this was not what she considered the market rent to be, but that this was paid to cover any arrears on her account. The Applicant believed that the market rent was approximately £500 per calendar month, although she had provided no comparables to justify this estimation.

Respondent's submissions

16. The Respondent's Representative stated that, although there had been a delay in installation, a new boiler had been installed which was working at the time of the Tribunal's inspection. He also confirmed that a gas safety certificate had been issued in respect of the same. In relation to the mould in the bathroom, he stated that this was due to the failure of the Applicant to provide adequate ventilation by opening a window and referred to the Council's letter, which stated that the tenant had a responsibility to ensure that the Property was kept free from mould and mildew. He also stated that any pest infestation was due to the Applicant's actions and referred the Tribunal to a letter that had been sent by the Respondent to the Applicant in January 2013, which referred to mould growth in the bathroom and lack of hygiene at the Property.
17. In relation to the front door, he stated that the porch door had been repaired on several occasions and that it had broken due to the Applicant's mishandling. He stated that the missing glass panel was only on an internal door and had been missing since the tenant first occupied the Property. He stated that the bathroom and kitchen door bolts were period features and had been in situ since the beginning of the tenancy. He submitted that the Applicant had never reported the faults with the extractor fan or electrics and that the Property had been let with a battery-operated smoke alarm in the rear lounge, which had subsequently been removed by the Applicant. He confirmed that he was not aware of the Respondent having queried the removal of the alarm with the Applicant.
18. Although the Respondent provided no independent evidence of the market rent, he provided details of properties that were being let by various members of his family, which he described as comparable. They comprised:

43 Cornwall Road, Handsworth

A similar two-bedroom house currently let at £550 p/cm. The landlord (the Respondent's mother) stated that the current tenants had been in the property since June 2006 and stated that she was aware she could obtain a market rent of £600 p/cm.

68 Cornwall Road, Handsworth

A similar three-bedroom house currently let at £572 p/cm. The landlord (the Respondent's Representative) stated that the rent would be increasing to £625 p/cm in April 2019.

87 Cornwall Road, Handsworth

A similar three-bedroom house currently let at £600 p/cm. The landlord (the Respondent's Representative) stated that he regarded the same as a two-bedroom house due to the third bedroom only being accessible via one of the other bedrooms.

13 Cornwall Road, Handsworth

A similar three-bedroom house which was currently vacant, but had previously been let at £572 p/cm. The landlord (the Respondent's Representative) stated that he was now looking to rent the same for £650 p/cm.

The Respondent's Representative stated that all of the comparables were similar properties, albeit in a good state of repair. He stated that some of the properties had battery-operated smoke alarms and that all of them had gas safety certificates and EPCs. He stated that the bathroom in 43 Cornwall Road was located on the first floor. He stated none of the bathrooms in the other properties were accessed directly off the kitchen, but instead were separated by a small hall. He confirmed that builders were currently altering the layout at the Property to create a similar partition between the bathroom and kitchen.

Reasons for the Decision

19. In the first instance, the Tribunal proceeded to determine the rent at which the Property might reasonably be expected to let on the open market if it were let today in a condition that would be considered usual for such an open market letting. It did this by having regard to the comparables provided by the Respondent, as well as the Tribunal's own general knowledge of market levels in Birmingham. Having done so, it concluded that such a likely market rent would be £625 p/cm.
20. The Tribunal found the subject Property was in a much poorer condition than would be considered as being satisfactory in order to achieve a market rent. Therefore, it was necessary to adjust the hypothetical rent of £625 p/cm to allow for the differences between the condition considered usual for such a letting and the condition of the Property, as observed by the Tribunal, (disregarding the effect of any disrepair or other defect attributable to the Applicant or any predecessor in title).
21. The Tribunal considered that this required a deduction of £75 p/cm in respect of the washing machine and fridge (which were supplied by the Applicant) and the general disrepair and condition of the Property, which included: the lack of any smoke alarms, the hole in the bathroom wall, the crack in the rear lounge wall, the damp in the bedrooms and kitchen, the fact that the bathroom could only be accessed via the kitchen and the fact that the rear garden could only be accessed via the door in the bathroom. No deduction was made in relation to the mildew in the bathroom as the Applicant was liable to keep the interior of the Property in a good and clean state and condition under the Tenancy Agreement and the Tribunal

considered that the Applicant had failed to adequately ventilate and take remedial action to combat the spread of the mildew.

22. This left a fair rent for the Property of £550 p/cm.

Decision

23. The rent is determined at £550 p/cm payable from 15th January 2010, being the date specified in the Respondent’s notice.

Appeal

24. If any party is dissatisfied with this decision, they may apply to the Tribunal for permission to appeal to the Upper Tribunal (Lands Chamber) **on a point of law only**. Such an application must be made within 28 days of this decision being sent to the parties in accordance with Rule 52(2) of The Tribunal Procedure (First-tier Tribunal)(Property Chamber) Rules 2013, and must state the grounds on which that party intends to rely in the appeal.

M. K. GANDHAM
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Judge M K Gandham