



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

**Case Reference** : **BIR/00CN/MNR/2019/0007**

**Property** : **74 Old Bromford Lane, Birmingham, B8 2RP**

**Applicant** : **Mrs Baharun Nessa**

**Respondent** : **Mateen Shari**

**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** : **2 May 2019**

**Date of Decision** : **24 May 2019**

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**DECISION**

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***The new rent determined by the Tribunal with effect from 16 March 2019 is £775.00 per month***

**Introduction**

1. On 22 February 2019 the Tribunal received an application for determination of rent for 74 Old Bromford Road Birmingham B8 2RP ( the Property). The Applicant tenant is Mrs Baharun Nessa. The Respondent landlord is Matten Shariff of 315 Green Lane, Small Heath, Birmingham B9 5PN.
2. The Applicant issued these proceedings because the Respondent had served a notice proposing a new rent under s13(2) Housing Act 1988. The new rent proposed was £900.00 per month in place of the existing rent of £750.00per month.
3. The Applicant and her family have occupied the Property as assured shorthold tenants since 16 May 2015 pursuant to a tenancy agreement dated 8 May 2015. The only document evidencing the terms of the tenancy agreement signed by both parties comprised a single page reciting the names of the parties, the rent payable, the term and little else. There were no other pages setting out further terms of the tenancy such as liability for repairs or responsibility for outgoings. The document appeared to be the front page of a standard form tenancy agreement.
4. The rent payable from inception of the tenancy to the date of the landlords notice proposing an increase was £750 per month. The Applicant is responsible for council tax and utility accounts in addition to the rent.
5. On 20 March 2019 the Tribunal notified the parties that the Tribunal would inspect the Property and make a decision on the application having regard to the inspection and any written representations they made.

6. Although both sides made representations about the state of the Property and the responsibility for its condition neither side presented any evidence of comparable rents in the area. The Respondent's justification for an increase was confined to confirming there had been no increase in rent since the start of the tenancy.

### **Inspection**

7. The Property is situated in a residential suburb of Birmingham close to a wide range of facilities, convenient bus routes and a large open space. It was inspected in the presence of the Applicant and her husband. There was no representation by the Respondent.
8. The Property is a traditional two storey semi-detached house built probably in the 1930s of brick and tile construction with rear extension. The roof has been recently retiled. It has gas central heating and is double glazed throughout with upvc windows and doors.
9. The front entrance door opens onto a hallway with staircase. There is a through reception room. The extension comprises the kitchen and bathroom. The Applicant informed the Tribunal that the extension, double glazing and roof retiling had been completed before commencement of the tenancy. The Tribunal were further informed that the extension was not fully fitted at the time of commencement of the tenancy. The landlord supplied tiles for the walls and kitchen fittings and asked the Applicant's husband to install them.
10. The Tribunal observed that the extension was not constructed to a high standard with internal floors levels being compromised due to higher external levels offering the potential for water and damp ingress. The foul outlet from the kitchen appeared from a superficial inspection to discharge into an open gulley before apparently falling into a foul outlet some distance away. The outlet also appeared to receive rainwater discharge

which is no longer considered good practice. In addition there is a truncated soil stack to the side of the property which is considered inadequate.

11. Wiring serving plugs in the kitchen had been chased into the walls but not properly skimmed leaving wires exposed. In addition some ceiling light fittings were without adequate covers and inoperative.
12. There was a bathroom off the kitchen with bath and shower over the bath from the taps, a w/c and hand basin. There was evidence of mould which may have arisen from usage by the Applicant and her family as there was no adequate ventilation.
13. On the upper floor there two double bedrooms, a single bedroom and a boxroom which was formerly the bathroom. The room was not large enough for a full size single bed. All rooms had radiators. Some rooms showed evidence of mould probably due to condensation which may be the result of inadequate ventilation in occupied rooms which may have resulted from tenant usage.
14. Exterior inspection revealed the need for some repair and maintenance work including making good the drainage and providing appropriate completion works to the soil stack to the side of the property. Properly capping off the foul water pipe from the old bathroom.

### **Statutory Framework**

15. 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**

16. Neither side presented any comparables in their pre hearing written submissions. The Applicant admitted she was not generally aware of rents in the area but informed the Tribunal during the inspection that a nearby property was let for £650pcm one year ago and other properties in better condition were let at £750pcm. No supporting evidence was presented.
17. The Respondent asserted the rent proposed £900.00 was because there had been no increase since commencement of the tenancy in May 2015.
18. Both sides agree the proceedings arose because the Respondent wished to take possession of the Property but as it may take some months before possession is taken the Respondent is seeking a higher rent.

### **Decision**

19. Inspection of the Property indicated it was in need of attention particularly to the extension. Moreover the bathroom arrangement on the ground floor was compromised.
20. The Respondent is proposing an increase of £150.00 per month which represents an increase of 20% since 2015. The Respondent did not adduce evidence to support the proposed increase other than that there had been no increase in the rent since inception of the tenancy. The Applicant did not provide any information regarding rents in the near neighbourhood of the Property other than the informal indication by her during the inspection that a nearby property was let at £650.00 per month. There was no evidence to support the valuation.

21. The Tribunal relied upon its inspection of the Property, its general experience of rents in the area and its own consideration of information generally available from well known websites about rents offered for properties within 1-1.5 miles of the Property.
22. The Tribunal were unable to identify any comparable property in the area that had let at a rent as high as suggested by the respondent. The Tribunal did not consider the alterations to the upper floor by removal of the bathroom created an extra bedroom and have calculated their decision on the assumption the Property has three bedrooms.
23. In addition the placing of the bathroom and WC at ground level is a disadvantage with most of the market preferring those facilities to be at first floor level. This is accordingly seen as detracting factor in relation to rental value.
24. Having regard to the condition and layout of the Property and the comparables identified by the Tribunal it considers the present rent is near market value for a property of this type in this area. The Tribunal had no evidence before it to enable it to decide whether or not the rent of £750.00 was a market rent but it was satisfied that at the date of determination the market rent for a property of this type in the area was in the region of £750.00 to £800.00 per month. It was not realistic to determine an increase of 20% which would have resulted in a rent far in excess of all other similar properties in the area.
25. After its consideration of the statutory framework, the condition of the Property as let by the Respondent and other rents offered in the area the Tribunal determined the market rent for the Property is £775.00 per month.

## Appeal

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.

Tribunal Judge PJ Ellis