



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

Case Reference : **MAN/00BL/MNR/2019/0013**

Property : **12 Albion Gardens
Back Young Street
Bolton
BL4 9BF**

Landlord : **Inclusion Housing**

Representative : **N/A**

Tenant : **Clare Cartwright**

Representative : **N/A**

Type of Application : **Determination of rent under section
14 of the Housing Act 1988**

Tribunal Members : **Judge Colin Green
Ken Kasambara**

Date : **Inspection and determination 9 May
2019**

Date of Decision : **9 May 2019**

Date of Reasons : **01 July 2019**

REASONS FOR DECISION

DECISION

The rent at which the Property might reasonably be expected to be let on the open market by a willing landlord under an assured tenancy is £362.00 per week exclusive of water rates and council tax.

This rent will take effect from 1 April 2019, being the date specified by the landlord in the notice of increase.

REASONS

Background

1. The Property is held on a statutory weekly periodic tenancy under the Housing Act 1988. The tenant is Clare Cartwright. The landlord is Inclusion Housing.
2. The statutory tenancy commenced on 15 February 2016 on the expiry of an Assured Shorthold tenancy for a term from 10 August 2015 to 14 February 2016 granted by the landlord to the tenant under a written tenancy agreement dated 5 July 2016. The repairing obligations of the parties are governed by the terms of that agreement. As at the date the landlord gave notice proposing an increase in rent, the rent was £357.65 per week, payable on the Monday of each week. There is no service charge.
3. By a notice to the tenant dated 5 February 2019 the landlord proposed a new rent for the Property of £377.68 per month with effect from 1 April 2019.
4. On 19 March 2019 the tenant referred the landlord's notice to the Tribunal under section 13(4) of the Housing Act 1988. The tenant's application was in the prescribed form and was made before the date specified in the landlord's notice for the start of the proposed new rent.

Inspection

5. The Tribunal inspected the Property on the morning of 9 May 2019 in the presence of a representative of the landlord and the tenant and her mother. The Property is a ground floor self-contained flat in a purpose-built block for those with special needs, comprising one bedroom, living room and kitchen area and bathroom /WC with white goods included. It was noted that there was some damp in the bedroom falling within the landlord's repairing obligations, and some necessary improvements, being a new bathroom floor, which can drain more efficiently, and a new washer dryer. The Tribunal was informed that certain other matters which had been in issue had been resolved between the parties.

Evidence

6. As appears from the schedule attached to the notice of increase, the landlord has calculated the proposed new rent by reference to its overheads for the building in which the Property is located and the provision of certain services, divided by the total number of tenants. It is a matter for the landlord how it chooses to calculate a rental increase, but it is not the function of the Tribunal on an application to determine a market rent to consider the wisdom of such a calculation or the suitability or reasonableness of the charges that are included. This is not a service charge case and the sum which the landlord seeks is by way of rent, not under any provision for the payment of a service charge, for which there is no provision in the tenancy agreement.
7. There were written representations from both landlord and tenant concerning components that go to make up the above calculation and other issues such as TV Licensing and some outstanding repairs. As stated above, subject as noted by the Tribunal these were either no longer issues and had been attended to, or fall outside the scope of matters that can be dealt with by the Tribunal under the jurisdiction conferred by s. 14 of the Housing Act 1988. In addition, the tenant's mother, Dawn Brayshaw, submitted that she considered the rent too high, but primarily by reference to the way the landlord had calculated the proposed increase. Neither party provided any evidence of comparables.
8. Following the hearing the Tribunal made its determination.

Law

9. Where a tenant has referred a valid landlord's notice to the Tribunal under section 13 of the Housing Act 1988, section 14 of that Act requires the Tribunal to determine the rent at which it considers that the property might reasonably be expected to be let on the open market by a willing landlord under an assured tenancy. In so doing the Tribunal is required, by section 14(1) of the Act, to ignore the effect on the rental value of the property of any relevant tenant's improvements as defined in section 14(2).
10. For these purposes, "rent" includes amongst other things any sums payable to the landlord by the tenant in respect of council tax. It does not include a "service charge" within the meaning of section 18 of the Landlord and Tenant Act 1985 (i.e. where the service charge payable by the tenant is variable from time to time according to the relevant costs). However it does include a "fixed" service charge.

Validity of the landlord's notice

11. The Tribunal must first determine that the landlord's notice under section 13(2) of the 1988 Act satisfied the requirements of that section

and was validly served. Those requirements are that the notice was given in the prescribed form and was accompanied by the relevant guidance notes, that it gave at least one month's notice of the proposed increase, and that it must specify a start date for the proposed new rent which coincides with the beginning of a period of the tenancy.

12. The Tribunal determined that the landlord's notice complied with these requirements and was therefore validly served.

Valuation

13. The Tribunal next determined the rent at which the Property could reasonably be expected to be let on the open market by a willing landlord under an assured tenancy if it were let today in the condition that is considered usual for such open market lettings.

14. The Tribunal considered a number of comparables for one-bedroom flats in the area taken from zoopla.co.uk, with rents ranging from £107.00 to £137.00 per week, but none were genuinely comparable with the Property which has been constructed to accommodate and is within a building designed for, those with special needs. There is a very restricted market for such specialist accommodation and for that reason a considerably higher rent would be expected. Without any like comparables available in the locality, and none having been provided by the parties, the Tribunal applied a multiplier of 3 to £125.00 per week for the more typical accommodation available, providing a figure of £375.00 per week.

15. However, in the respects mentioned above the Property is not in the condition considered usual for a modern letting at a market rent and so the Tribunal proceeded to make a number of deductions from the hypothetical market rent of £375.00 per week to take account of relevant differences.

15.1 A deduction of £5.00 to reflect the disrepair noted above.

15.2 Deductions of £6.00 per week were made for the bathroom improvement and £2.00 per week for a new washer/dryer, which would need to be made to the Property to bring it up to the standard considered usual for an open market letting.

16. The total of those deductions amount to 13.00 per week and reduced the net market rent for the Property to £362.00 per week.

Signed: Judge C. Green

Dated: 01 July 2019