



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

Case Reference : BIR/41UF/MNR/2019/0035

Property : 30 Mitre Road, Cheslyn Hay, Walsall, West Midlands,
WS6 7HN

Applicant : Wendy Evans

Respondent : Martin Woodhouse

Type of Application : Appeal against a notice proposing a new rent for an Assured
Shorthold Periodic Tenancy under section 13(4) of the
Housing Act 1988

Tribunal Members : Mr I.D. Humphries B.Sc.(Est.Man.) FRICS
Mr C.Gell B.Sc. FRICS

**Date and Venue of
Hearing** : 17th September 2019 at the First-tier Tribunal (Property
Chamber), City Centre Tower, 5-7 Hill St., Birmingham

Date of Decision : 17th September 2019

Date Reasons Issued : 22 October 2019

DECISION

- 1 The rent is determined at £475.00 (Four Hundred and Seventy Five Pounds) per calendar month from 1st August 2019.

REASONS

Introduction

- 2 The tenant, Mrs Wendy Evans, holds an assured shorthold monthly tenancy of 30 Mitre Road, Cheslyn Hay, Walsall, West Midlands, WS6 7HN, where she has been the tenant since 1st August 2006. It was let unfurnished.
- 3 On 10th June 2019 the landlord served notice of increase under section 13(2) of The Housing Act 1988 proposing a rent increase to £525.00 per calendar month to take effect on 1st August 2019. Neither the previous nor proposed rents included payment for Council Tax, water rates or fixed service charges.
- 4 On 30th July 2019 the tenant applied for the rent to be determined by the First-tier Tribunal (Property Chamber).
- 5 On 17th September 2019 the Tribunal inspected the property and determined the rent at £475.00 per calendar month from 1st August 2019.
- 6 On 3rd October 2019 the landlord, Mr Woodhouse, requested Reasons for the Tribunal's decision.

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 17th September 2019. The tenant and tenant's Solicitor, Mr S. Russell, were at the inspection and subsequent Hearing but the landlord was not present although he had been given the opportunity of attending.
- 10 The property comprises a former Council house forming the centre of a block of three on a former Council estate in Cheslyn Hay. It had been built in 1965. It is within walking distance of local facilities.
- 11 The accommodation comprises a hall, two receptions, kitchen and small store on the ground floor with a landing, three bedrooms, bathroom, w.c. and airing cupboard on the first floor. It has a lawn to the front accessed from a path from Mitre Road and a small back garden. It has no direct road frontage.
- 12 The house is of two storey brick and tile construction with a dormer roof to the rear.
- 13 The house is double glazed to the front and single glazed to the rear. It has part central heating provided by a gas-fired boiler which was replaced by the tenant and located in the airing cupboard, with old column radiators in the kitchen, rear reception room and landing. The front reception room and bedrooms are unheated.
- 14 The property was in poor condition at the date of inspection. It needed modernising, there was a leak from the rear dormer which was allowing water into the accommodation beneath, the gutters were choked and there was loose plaster on the w.c. walls.

Submissions

- 15 The tenant requested a Hearing which was held at the Tribunal office attended by the tenant, Mrs Evans, and her solicitor, Mr Russell. The landlord did not attend or send any submissions.
- 16 The Applicant's Submission
Mr Russell advised that the house had been bought from the Council in 1987 under the Right to Buy scheme. It had initially been owned by Mrs Evans but she subsequently sold it to Mr Woodhouse and continued in occupation as the tenant. Mr Woodhouse inspected the property in Spring 2019 and had obtained a Gas Safe certificate for the boiler.

Mr Russell advised the Tribunal that the tenant paid for the water rates and Council Tax direct to the authorities. He said the landlord had bought the house with the front elevation double glazing already fitted.

No evidence was provided of comparable rents in the area for accommodation of this type.

Decision

- 17 The house is in basic condition. It has part central heating but the general standard is poor and below the condition expected by tenants in the present market. The roof leak and choked gutters would put off many tenants but in the Tribunal's view there would still be parties willing to rent it, albeit at a rent reflecting its condition. In good condition, refurbished, it ought to have let for a higher rent under the terms of the tenancy, but in the absence of any comparable evidence from the parties and applying its own general knowledge and experience, the Tribunal found the rental value at the valuation date of 1st August 2019 to have been £475.00 per calendar month.

18 The Tribunal therefore determined the rent in accordance with section 14 of The Housing Act 1988 at £475.00 (Four Hundred and Seventy Five pounds) per calendar month with effect from 1st August 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).