



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

Case reference : **CAM/42UH/MNR/2019/0017**

Property : **77 Beresford Road, Lowestoft,
Suffolk NR32 2NQ**

Applicant : **Terence Mack**

Representative : **N/A**

Respondent : **S Farrell**

Representative : **N/A**

Type of application : **Market rent determination**

Tribunal member(s) : **Tribunal Judge S Evans
Mrs M Hardman FRICS IRRV
(Hons)**

Date and venue of hearing : **Paper determination**

Date of decision : **31st October 2019**

DECISION

The Tribunal determines a rent of £550 per calendar month to take effect from 1st October 2019.

REASONS

The Property

1. The Property is a 2 bedroom terraced house probably constructed in Victorian times of brick under a pitched slate roof.

Accommodation

2. The Property comprises on the ground floor: hallway, 1 living room/dining room, and kitchen. On the first floor is a bathroom, 2 bedrooms and a box room. There is a backyard with a brick outhouse.

Services

3. The Property has the benefit of a new combi boiler installed within the last few years to provide central heating.

Furnishing

4. The Property is let unfurnished.

Location

5. The Property is in a residential street of similar properties in the centre of Lowestoft.

The Tenancy

6. The Tenancy is a contractual Assured Shorthold Tenancy which commenced on 27th March 2007 for a term of 6 months at £400 pcm, and is presumed to have run as a Statutory Periodic Tenancy since the end of the initial term.
7. A copy of the Tenancy Agreement was provided. The Tenancy Agreement is in standard terms. The Tenant is responsible for keeping the interior, decorations, plasterwork, fixtures, fittings and appliances in good repair and condition by clause 4(5) thereof.
8. Section 11 of the Landlord and Tenant Act 1985 applies in respect of the Landlord's repairing obligations.

The Application

9. The current rent is £550.00 per calendar month.
10. The Respondent landlord by a notice in the prescribed form dated 21st August 2019 proposed a new rent of £575.00 per calendar month from 1st October 2019.

11. On 9th September 2019 the Applicant tenant referred the notice proposing a new rent to the Tribunal.
12. The referral was a determination after an inspection of the Property on 21st October 2019 and consideration of written representations.

Representations

13. The Tenant made written representations saying that he had made improvements by way of new guttering, re-hanging of the outhouse door, and changing of the ball(cock) in the WC.
14. Further, he complained of defective windows, the whole property being in a bad state, defective kitchen flooring, and a defective rusted soil stack at the rear.
15. The Respondent landlord made written representations indicating that it had started possession proceedings against the Applicant.
16. Neither party provided any comparable rental values for consideration.

The inspection

17. The Tribunal inspected the Property in the presence of the Applicant tenant. A representative of the landlord was present when the Tribunal members first arrived, but he departed before the inspection took place.
18. Externally, the windows, sills and external decorations were in a poor condition, although the slate roof looked in reasonably good condition, and valley gutters were clear.
19. The kitchen was of a decent size but basic. There was one area where the flooring appeared to have dropped. The Applicant also pointed out what he considered to be live plaster.
20. The living room/diner had no apparent issues bar the windows. The central sash window of the bay was difficult to operate, and the side ones were seized. The rear window in this room, overlooking the yard, had rotten members.
21. In the yard, the Applicant pointed out a section of the soil stack which was rusted. He also showed the Tribunal the new plastic guttering he had added to the outhouse, and its door, which he had eased and adjusted.
22. Upstairs bedroom 1 suffers from window defects including rotten frames. In bedroom 2, the bay window right hand side sash cord was broken. We were also shown an area of historical water penetration on the ceiling to this room, but there were no signs of any current issues.

23. The bathroom fittings were old and very basic, but no disrepair issues were apparent.

The Law

24. By virtue of section 14 (1) Housing Act 1988 the Tribunal is to determine a rent at which the dwelling-house concerned might reasonably be expected to be let in the open market by a willing landlord under an assured periodic tenancy- (a) 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 rent) are the same as those of the subject Tenancy.

25. By virtue of section 14 (2) Housing Act 1988 in making a determination the Tribunal shall disregard – (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 (as defined by section 14(3) Housing Act 1988) carried out by a tenant otherwise than as an obligation; and (c) any reduction in the value of the dwelling-house due to the failure of the Tenant to comply with any terms of the subject Tenancy.

Determination

26. The Tribunal is required to determine the rent at which the subject property might reasonably be expected to be let in the open market by a willing Landlord under an assured periodic tenancy. The personal circumstances of the parties are not relevant to this issue, except in relation to the starting date for the rent, which can be determined to take effect a date later than the date specified in the notice, if undue hardship to the Tenant would otherwise be caused.

27. The Tribunal does not take into account the present rent and the period of time which that rent has been charged, nor does it take into account the percentage increase which the proposed rent represents to the existing rent.

28. The Tribunal does not take into account that possession proceedings have allegedly been started.

29. As neither the tenant nor the landlord produced letting details of any similar property, the Tribunal had to rely on their knowledge and experience and similar properties available on the letting market.

30. The Tribunal finds that the property in good condition would let on the open market at £600 - £650 per month. However the Tribunal has made an adjustment to this to reflect the condition of the property, most notably the windows, the bathroom fittings and some evidence of damp, albeit probably historic. The Tribunal disregards the Applicant's

improvements as not having any effect on the value of the Property and not being a relevant improvement.

31. In all the circumstances, the Tribunal determines that that the market rent for the Property in its present condition is £550 per calendar month to take effect from 1st October 2019, no representation of undue hardship being relevant.

Caution: The Tribunal inspected the subject property for the purposes of reaching this decision. The inspection was not a structural survey and any comments about the condition of the property in this statement must not be relied upon as a guide to the structural or other condition of the property.

Name:

Date: 31st October 2019.

APPENDIX - RIGHTS OF APPEAL

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber), then a written application for permission must be made to the First-tier Tribunal at the regional office which has been dealing with the case.

The application for permission to appeal must arrive at the regional office within 28 days after the tribunal sends written reasons for the decision to the person making the application.

If the application is not made within the 28 day time limit, such application must include a request for an extension of time and the reason for not complying with the 28 day time limit; the tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed, despite not being within the time limit.

The application for permission to appeal must identify the decision of the tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal and state the result the party making the application is seeking.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).