



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

Case Reference : **MAN/00CZ/MNR/2019/0082**

Property : **75 Lightridge Road, Fixby, Huddersfield,
HD2 2HF**

Applicant tenant : **Mr Mohammed Wasim**

**Respondent
landlord** : **Mr Narinder Khela**

Type of Application : **Market Rent, section 13 and 14 of the
Housing Act 1988**

Tribunal Members : **Judge C. P. Tonge, LLB, BA
Mr J. Faulkner, FRICS**

Date of Decision : **13 January 2020**

Date of Determination : **20 January 2020**

DECISION

Background

1. Mr Mohammed Wasim "the tenant" of 75 Lightridge Road, Fixby, Huddersfield, HD2 2HF "the property", referred to the Tribunal a Notice of Increase of Rent, dated 16 September 2019, served by "the landlord" Mr Narinder Khela, under section 13 of the Housing Act 1988 "the Act". The application to the Tribunal is dated 6 November 2019.
2. The landlord's notice is dated 16 September 2019 and proposes a rent of £1,275 per calendar month, to take effect from 10 November 2019. It is in the prescribed form and is accompanied by a guidance note for tenants. The tenancy commenced on 10 January 2017, this being a new tenancy with "the tenant" replacing another family member who had previously been the tenant.
3. The current rent is £950 per calendar month.
4. Both parties requested a hearing.
5. "The tenant" made representations on the application form and in separate written documents. The landlord has also submitted written representations. All of these documents have been copied to the other party.
6. The Tribunal inspected "the property" on 13 January 2020 after which a hearing was conducted at the Court House, Civic Centre, Huddersfield, HD1 2NH.

The Law

The Tribunal must first determine that the Landlord's Notice under section 13(2) of "the Act" satisfies the requirements of that section and is validly served.

Section 13 of "the Act" permits the Landlord, or his agent, under a periodic tenancy of the type specified in section 13(1) to serve a notice in the prescribed form on "the tenant" proposing a rent increase. A valid notice will have the effect of increasing the rent on the date specified in the notice unless before that date "the tenant" refers the notice under section 13(4) to the relevant Tribunal for a determination of the rent.

To be valid, the notice must not only be in the prescribed form but must also comply with the requirements set out in section 13(2) and (3) of "the Act" as to notice periods and propose a new rent to take effect at the beginning of a new period of the tenancy.

The prescribed notice is that contained in the Assured Tenancies and Agricultural Occupancies (Forms) Regulations 1997 (SI 1997 / 194) as amended by the Assured Tenancies and Agricultural Occupancies (Forms) (Amendment) (England) Regulations 2003 (SI 2003 / 260).

Section 14 of “the Act” requires the Tribunal to determine the rent at which it considers that the subject 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 improvements made by "the tenant", as defined in section 14(2).

Section 14(4) of “the Act” provides that for the purposes of section 14 “rent” includes among other things any sums payable to the Landlord by "the tenant" in respect of council tax, but it does not include a service charge within the meaning of section 18 of the Landlord and Tenant Act 1985 where the amount of service charge payable by "the tenant" is variable from time to time according to changes in relevant costs. However, it does include a “fixed” service charge.

The Inspection

7. The Tribunal commenced its inspection of “the property” at 10 am on 13 December 2020. "The tenant" was present at the inspection but could not involve himself in the inspection because he is suffering from advanced Duchene Muscular Dystrophy and is very ill, being paralysed and was being cared for in bed. "The tenant's" interests were represented by his brother, Kaleem Mohammed. "The tenant" had informed "the landlord" in advance that "the landlord" would not be permitted to enter "the property" and "the landlord" did not attend the inspection.
8. The property is a detached two storey dwelling which, on the upper ground floor, contains a reception hall with stairs going down to a lower ground floor that is built into a hillside. The upper ground floor, in addition to the hall has a living room, dining room, kitchen, utility room and a toilet with a sink. The lower ground floor has four bedrooms, the master bedroom having an en suite bathroom, a family bathroom and an additional reception room that has French windows opening onto a small paved area and giving access to the gardens. The property has uPVC double glazed windows and central heating. There are gardens and a double garage on the lower level of the building with an up and over door. The property is unfurnished, but floor coverings belong to "the landlord".

9. "The tenant" appears to have been resident at "the property" since 10 July 2013. This however is not a tenancy that has rolled on since that date, there having been several new tenancies created with different tenants. These tenants have over this period of time undertaken various repairs, but they are not improvements, cannot alter the rental value of the property and are therefore not recorded here.
10. There is a long list of potential repairs that the Tribunal is asked to consider and to decide if they alter the rental value of the property, this lease being subject to section 11 of the Landlord and Tenant Act 1985. The Tribunal inspected all the potential repairs that were brought to the attention of the Tribunal and if relevant to the rental value of "the property" they will be mentioned in the appropriate place.
11. "The property" occupies a corner plot at the junction of Lightridge Road and Lowcliffe Hill Road, on the far side of which is Huddersfield Golf Course. Being built on the corner of two roads the garden at the side of the property is roughly triangular in shape and is open to view by anyone passing by. The garden areas have slopes that in some areas are severe. There is a raised man hole cover over a water pumping device and a raised cover over a water collection area. Generally, the gardens have surfaces that in addition to being sloped are uneven, such that they contain trip hazards and act to devalue "the property".
12. "The tenant's" brother is of the view that the nearby golf course is such that it causes a hazard with golf balls flying into the garden of "the property".
13. The land next to "the property" and further away from the junction can best be described as a building site, although there was no activity in that site during the period that the Tribunal was involved in the inspection. The soil in the hillside has been substantially dug out so that it is clear that there is an intention to build a house at this location with a similar plan to "the property". The Tribunal considers this to act to devalue "the property". It is not pleasant to look at and the noise and nuisance that this necessarily cause to "the tenant" of "the property" is such as to reduce the notional rent to be calculated.

Written evidence on behalf of the Applicant tenant

14. "The tenant's" submissions in relation to the demised property are here summarised. "The tenant's" brother complains that "the landlord" has promised over the years to make the gardens safe and to install wheelchair ramps, but that this has not been done. This is not relevant to the market rent for the property as the rent will be determined on "the property" as it stands today.

15. Generally, "the tenant" submits that this property has not been properly maintained, providing a huge list of faults, and a list of repairs that tenants in the past have undertaken. On occasion these faults are supported by photographs and videos.
16. Further, "the tenant" contends that the properties suggested as potential comparables by "the landlord" are not in fact comparable at all because of differences in size, location and condition. "The tenant" seeks to rely upon a rent calculation provided by Open Rents rent calculator, giving a rent of £660 per calendar month for "the property". Further, he suggests that rental values in Fixby are in fact falling rather than increasing.

Written evidence on behalf of the Respondent landlord

17. "The landlord's" summarised submissions are to the effect that he is responsive to requests for repairs. He produces a list of repairs requested and indicates after each item how he has dealt with the complaint.
18. "The landlord" seeks to suggest that since there is an extra reception room over and above that which would normally be required that this room could be classed as an extra bedroom, so that "the property" could be taken to be a property with five bedrooms, increasing its rental value. It is however clear that the extra room is built in the style of a reception room, having exterior French windows. Further, "the landlord" accepts that when each lease relevant to this case has been signed, "the property" has been described as having four bedrooms.
19. "The landlord" provides a number of possible comparables.

The hearing

20. A hearing took place after the inspection at the Court House, Civic Buildings, Huddersfield. "The tenant" again being represented by his brother, Kaleem Mohammed. "The landlord" also being present for the hearing.
21. At the start of the hearing Judge Tonge read out what was recorded as having been seen by the Tribunal during the inspection. This was to make sure that "the landlord" was aware of what the Tribunal had seen in his absence.
22. The parties then gave evidence supplementing their written evidence and cross examined each other briefly. Where necessary reference will be made to any such evidence in the determination.

Determination

23. The Tribunal determines that the Open Rent, rent calculation cannot be relied upon, it is far too low a rent for this type of property in this location.
24. The Tribunal accepts the evidence of "the landlord" to the effect that rental values are not dropping in this area. "The landlord" refers to a rental property, The Dell, a quarter of a mile away from "the property" that is a suggested comparable and it has just been rented out at £1200 per calendar month, having been on the rental market for only three weeks. This indicating demand for similar properties at a higher rental value nearby.
25. The Tribunal considers the potential comparables that have been referred to in the case. The Tribunal is of the view that with "the property" being built into a hillside makes it quite unique in the area of Fixby. The Tribunal determines that The Dell, Fixby has the greatest similarity to "the property". The rent for The Dell is £1,200 per calendar month.
26. However, The Dell is not directly comparable since "the property" stands next to a building site and has gardens that are potentially unsafe and as such unusable. The Tribunal determines that it must reduce the notional open market rent for "the property" to £1,000 to reflect these two devaluing features.
27. A great deal of evidence has been given in relation to "the tenant's" contention that the gutters, even after repair and maintenance has been carried out, are still leaking. "The landlord" gives detail as to how he has dealt with this issue, employing a roofing expert to assist him and that testing of the gutters is still ongoing. The Tribunal has seen a photograph taken yesterday by "the Tenants" brother that shows drips coming from one place in the gutter. However, the Tribunal is satisfied that extensive work has been done to the gutters and that testing is still ongoing with a view to complete eradication of any lingering dripping. The Tribunal determines that such fault as still exists is not capable of effecting the rental value of "the property".
28. The Tribunal determines that various areas of mould are caused by condensation and that they are not the responsibility of "the landlord" to repair. In any event they are not substantial enough to make a difference to the rental value of "the property".

29. The floor coverings have been supplied by "the landlord" and are therefore "the landlords" responsibility. There are large areas of laminate floorings in several rooms that move under foot sliding along the long length of the laminated wood. These need to be fixed in place. In addition there are rooms in which there are grey carpets that are not properly fitted and are in such a worn condition that they need to be replaced with new floor coverings. These are items of neglect and the Tribunal determines that a reduction should be made from the notional open market rent of £50 per calendar month, to reflect these.
30. The Tribunal determines that there are no other faults that are capable of reducing the rental value of "the property".
31. The Tribunal therefore considers that the subject property might reasonably be expected to be let on the open market by a willing landlord under an assured tenancy at £950 per calendar month.
32. "The landlord's" Notice of Increase of Rent complies with the requirements of section 13 of "the Act". As a result the notice operates, pursuant to section 14(1)(b) of "the Act", to potentially increase the rent as of 10 November 2019. However, since the current rent is the same as the market rent that has now been calculated, rent will continue to be £950 per calendar month.

The Decision

33. The Tribunal decides that "the property" might reasonably be expected to be let on the open market by a willing Landlord under an assured tenancy at £950 per calendar month and that this is the same figure as the rent currently being charged.
34. There is no statutorily provided right of appeal against the factual findings in this valuation of market rent.

Judge C. P. Tonge
13 January 2020