



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

Case Reference : **BIR/OOCN/MNR/2019/0047**

Property : **192 Burlington Road, Birmingham B10 9PD**

Tenant : **Mrs Asha Ahmed Mohamed**

Landlord : **Mr Mahboob Ali**

Type of Application : **Housing Act 1988**

Members of Tribunal : **Judge D Jackson
Mr N Wint FRICS**

Date of Hearing : **8th January 2020
Centre City Tower, Birmingham**

Date : **3rd February 2020**

WRITTEN REASONS FOR THE DECISION

Background

1. The Property is held under the terms of a Tenancy Agreement dated 10th October 2012 whereby the Property was initially let for a period of 12 months from 24th September 2012.
2. On 23rd October 2019 the Landlord gave Notice proposing a new rent of £765 per month starting on 24th December 2019.
3. The existing rent payable from 24th October 2018 was £650 per month following a determination by a previous Tribunal (BIR/OOCN/MNR/2018/0055).
4. The Tenant has made Application referring the Landlords Notice proposing a new rent to the Tribunal.
5. The Tribunal held an oral hearing on 8th January 2020 in Birmingham. The Tenant attended and was represented by Mr Mohamed Abdi Mohamood. The Landlord also attended at the hearing.

Inspection

6. The Tribunal inspected the Property in the presence of the Tenant, Mr Abdi and the Landlord immediately prior to the hearing
7. The Property is a two storey end of terrace house comprising 2 reception rooms, 3 bedrooms, kitchen and bathroom. The Property has gas fired central heating and UPVC double glazing throughout
8. The ground floor comprises two living rooms, kitchen and bathroom. On inspection of the front room we noted that a repair had been carried out to a leaking radiator and that there was some staining to the front right hand corner wall. The rear room has stairs to the first floor. The cover was missing from the fusebox. There was also evidence of mould growth above the window looking out to the garden. The kitchen houses the Vaillant boiler. Again, there was evidence of an historic radiator leak. The fitted kitchen as well as cooker and hood have been supplied by the Landlord. The tumble-dryer, fridge and microwave belong to the Tenant. The bathroom is contained within a rear monopitch extension. The bathroom contains toilet, bath and basin. There was evidence of mould growth within the bathroom. Between the kitchen and the bathroom is a small lobby giving access to the rear garden which has been paved and is enclosed by a panel board fence.
9. On the first floor are 3 bedrooms. The front double bedroom has a window fastening which appears to be broken. The middle bedroom contained a single bed and a bunk bed. There is also a storage cupboard. Again, there was evidence of discolouration to the plasterwork which had been repainted. On external inspection it was noted that the brickwork above the window had been painted over which suggested that historically there may have been some overrun from the guttering. The rear bedroom contained a single bed. There was evidence that mould had caused discolouration to the plasterwork and had been painted over. From our external inspection we noted that the chimney above this room had been rebuild many years ago.
10. The previous Tribunal found at paragraph 11 of its Reasons “that the Property had been refurbished to a reasonable standard but that there was some deterioration and neglect by [the Landlord]”. We inspected the matters of concern raised by the previous Tribunal. The radiators had been repaired. There was evidence of replacement pipework, the pipes were warm and there was no evidence of rust. The bathroom waste pipe had been tightened and the Landlord had installed 2 new brackets to secure the soil stack vent pipe.

Condition

11. The Tenant's Obligations under the Tenancy Agreement include:

“2.3 To keep the interior of the Property in a good and clean state and condition and not to damage or injure the Property (fair wear and tear excepted)

2.5 Not to make any alteration or addition to the Property nor to do any redecoration or painting of the Property without the Landlord's prior written consent (consent not to be withheld unreasonably).”

12. At the hearing we asked both parties to comment on the condition of the Property. The Landlord told us that the Property was “fine”. The Tenant's evidence was that the condition of the Property was “really bad”.
13. We found the condition of the Property to be poor. The interior was not in a good and clean state as required by clause 2.3. We also found that the discolouration and staining to plasterwork (sitting room, dining room, bathroom, middle and rear bedrooms) was most likely caused by black spot mould attributable to condensation caused by poor ventilation as there was no “blown” plaster consistent with water penetration. The only exception being the middle bedroom where painting of the external brickwork above the window suggests an overflowing gutter.
14. The matters set out in the proceeding paragraph have to be disregarded by the Tribunal when making its determination under section 14(2)(c) of the Housing Act 1988 as being “any reduction in the value of the dwelling house attributable to a failure by the tenant to comply with any terms of the tenancy”.
15. However, when considering the rent at which the Property “might reasonably be let in the open market by a willing landlord under an assured tenancy” subject to the statutory assumptions and disregards we find that the Property was in poor condition. The kitchen was “basic” and both kitchen and bathroom are tired and require refurbishment. To be in a condition suitable for open market letting the property also needs redecoration throughout. The floor coverings also need replacement. The Landlord provides a cooker but no other “white goods”.

Comparables

16. Prior to the outset of the hearing the Tribunal gave copies of the following comparables to the parties and sought their comments during the course of the hearing:

- Hob Moor Road B25 (3 bed) - £800 pcm
- Hob Moor Road B25 8UF (3 bed) - £750 pcm
- Lyndon Road B33 (3 bed) - £750 pcm
- Flora Road B25 (3 bed) – £730 pcm
- Barrows Road (2 bed) - £695 pcm
- Barrows Road (2 bed) - £650 pcm
- Washwood Heath Road B8 (2 bed) - £650 pcm
- Wharfedale Road B11 (2 bed) - £550 pcm.

17. At the hearing the Landlord told us that a local agent had let “within 2 weeks” a 3 bedroom property at 369 St. Benedicts Road Small Heath at £800 pcm. However no written particulars were produced.
18. The Landlord was cross examined by the Tenant’s representative in relation to 202 Burlington Road. The Landlord was initially evasive in his replies but eventually conceded that property is currently let by his brother on whose behalf he collects rent of £680 pcm.
19. For the reasons we have given the Property would require redecoration, refurbishment of the kitchen and bathroom, new carpets and the provision of white goods to achieve the rental figures of £730-800 pcm for a 3 bed property as evidenced by the comparables.
20. We find the Landlord’s brother’s letting of 2020 Burlington Road to be a better comparable in terms of condition. We also take into account the Decision of the previous Tribunal which in November 2018 found that “in good condition” that the market rent would have been £675 pcm (paragraph 13). Clearly there has been no substantial movement of rental values between November 2019 and January 2020.
21. We find that applying section 14 (1) of the Housing Act 1988 on the assumptions therein and the disregards in subsections (2) and (4) that the open market rent for the Property is £675 pcm.
22. The new rent is payable in accordance with section 14(7) from the date specified in the Landlord’s Notice i.e. 24th December 2019. That date would not cause undue hardship to the Tenant. For the avoidance of doubt the Landlord is not entitled to any increase in rent “after the work I was advised to do by the Tribunal was carried out” as suggested in his letter to the Tribunal of 2nd December 2019. The new rent is only payable from 24th December 2019.

Decision

23. The rent is £675 per calendar month.
24. The date the Decision takes effect is 24th December 2019

D Jackson
Judge of the First-tier Tribunal

Either party may appeal this decision to the Upper Tribunal (Lands Chamber) but must first apply to the First-tier Tribunal for permission. Any application for permission must be in writing, stating grounds relied upon, and be received by the First-tier Tribunal no later than 28 days after the Tribunal sends this written Decision to the party seeking permission.