



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

Case Reference : **BIR/00CR/MNR/2020/0025**

HMCTS (paper, video audio) : **P: PAPERREMOTE**

Property : **37 Clancey Way Halesowen West Midlands
B63 3UX**

Landlord : **Midland Heart**

Tenants : **Beuala Mhindurwa & Amos Chapunza**

Type of Application : **An Application for a Determination under
Section 14 of the Housing Act 1988**

Tribunal Member : **V Ward BSc Hons FRICS – Regional Surveyor**

Date of Decision : **26 June 2020**

Date of Reasons : **8 July 2020**

DECISION

BACKGROUND

1. By way of a notice dated 24 February 2020, the Landlord sought to increase the rental in respect of 37 Clancey Way, Halesowen, West Midlands B63 3UX to £112.26 per week (including fixed service charges of £2.54 per week) under section 13 of the Housing Act 1988 (“the Act”) with effect from 6 April 2020.
2. The tenancy commenced on 8 December 2008 and the rent payable at the time of the notice was £106.85 per week.
3. By an application received on 3 April 2020, the Tenants referred the Notice of increase of rent served by the Landlord to the Tribunal.
4. Due to the Covid-19 Public Health Emergency, the Tribunal advised the parties that it would determine the Market Rent for the property based on the written submissions by the parties; the Tribunal did not intend to hold an oral hearing (unless one was requested by the parties) or inspect the property internally. This is following Public Health England’s advice to avoid unnecessary travel and social interaction for the time being.
5. Neither party requested a hearing.
6. The parties were further advised that the Tribunal may use internet mapping applications to gather some information about the location of the property and may, in some cases, inspect externally without entering onto the property. However, the parties were strongly encouraged to complete the reply form (provided by the Tribunal) to provide the Tribunal additional information regarding the property.
7. Both parties completed the reply forms.
8. On 26 June 2020, the Tribunal determined that the rent for the purposes of Section 14 was £147.00 per week (including fixed service charges of £2.54 per week) with effect from 6 April 2020. The Tribunal also observed that the rent that the Landlord intended to charge was £112.26 per week (including fixed service charges of £2.54 per week).
9. By way of a letter dated 30 June 2020, the Tenants requested reasons for the decision and stated that the object of their appeal was the service charge rather than the rent itself.

The Property

10. The Tribunal carried out an external roadside inspection of the Property. From that inspection and the information provided to the Tribunal, the Property comprises the following:

The Property is a modern terraced house arranged over three floors with the following accommodation:

Hall, lounge, kitchen, three bedrooms; bathroom. The Property incorporates a garage at ground floor level and there are gardens externally.

The Property benefits from gas fired central heating and double glazing.

The Property is situated on a modern estate of mixed housing types approximately 1.4 miles to the north east of Halesowen town centre.

Submissions of the Tenants.

11. The Tenants confirmed the accommodation offered by the Property and that they had provided the white goods and carpets and curtains.

The Tenants also stated that there was no justification for the service charge as there was only a small area of grass and a bush to be maintained.

Submissions of the Landlord.

12. Submissions of the Landlord were provided by Natasha Hart, Rent Setting and Service Charge Officer.

The submissions confirmed that the rent for the Property is a social rent which follows government guidelines and is increased by the Consumer Price Index figure of 1.7% plus 1.0% ie 2.7% in total. The Landlord stated that the service charge related to management and estate maintenance.

THE LAW

13. In accordance with the terms of section 14 of the Housing Act 1988 the Tribunal must determine the rent at which it considers that the subject property might reasonably be expected to let on the open market by a willing landlord under an assured tenancy.

14. In so doing the Tribunal, as required by section 14(1), must ignore the effect on the rental value of the property of any relevant tenant's improvements as defined in section 14(2) of the Act.

VALUATION

15. The Tribunal had regard to the evidence and submissions of the parties, the relevant law and their own knowledge and experience as an expert Tribunal but not any special or secret knowledge.
16. **The service charge in respect of this Property is a “fixed” service charge (as opposed to a “variable” service charge under the Landlord and Tenant Act 1985) as stated on the notice of increase. Despite the fact that this charge may actually vary over the years, the Tribunal cannot consider this item independently of the rent. The Tribunal must consider the both items together; the total amount charged to the Tenants i.e. the rent plus the service charge.**
17. Initially, the Tribunal's determination considers what rent the landlord could reasonably be expected to obtain for the Property if it were let today. It did this by using its own general knowledge of the market rent levels in Halesowen. Taking all factors into consideration, the Tribunal concluded that the likely market rental would be £160.00 per week. The Tribunal made a further deduction of £13.00 per week to reflect the Tenants' white goods, carpets and curtains and decorating liability. This results in a rental of £147.00 per week including service charge.
18. The rent determined by the Tribunal for the purposes of Section 14 was therefore, £147.00 per week (including fixed service charges of £2.54 per week) with effect from 6 April 2020. The Tribunal would reiterate that the rent that the Landlord intended to charge was £112.26 per week (including fixed service charges of £2.54 per week).

APPEAL

19. If either party is dissatisfied with this decision they may apply for permission to appeal to the Upper Tribunal (Lands Chamber) **on any point of law arising from this Decision**. Prior to making such an appeal, an application must be made, in writing, to this Tribunal for permission to appeal. Any such application must be made within 28 days of the issue of this decision (regulation 52 (2) of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rule 2013) stating the grounds upon which it is intended to rely in the appeal.

V WARD BSc (Hons) FRICS