



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

**Case Reference : BIR/00CN/MNR/2020/0009**

**HMCTS (paper, video : A: BTMMREMOTE  
audio)**

**Property : 60 Minstead Road, Erdington,  
Birmingham, B24 8PT**

**Landlord : Bernadette Moloney**

**Tenants : Marie Fahey & Thomas Fahey**

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

**Tribunal Member : V Ward BSc Hons FRICS**

**Date of Hearing : 29 July 2020**

**Date of Decision : 29 July 2020**

**Date of Statement of : 4 August 2020  
Reasons**

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**STATEMENT OF REASONS**

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## **BACKGROUND**

1. By way of a notice dated 11 February 2020, the Landlord sought to increase the rental in respect of 60 Minstead Road, Erdington, Birmingham B24 8PT to £144.00 per week under section 13 of the Housing Act 1988 (“the Act”) with effect from 20 March 2020.
2. The tenancy commenced on 9 June 1995 and the rent payable at the time of the notice was £100.00 per week.
3. By an application received on 2 March 2020, the Tenants referred the Notice of increase of rent served by the Landlord to the Tribunal.
4. Following the Covid-19 Public Health Emergency (PHE), a Procedural Judge reviewed this case and on 17 March 2020 advised the parties, that in accordance with the overriding objective and considering the PHE advice, that the Tribunal’s planned inspection of the Property would no longer take place. The parties were advised that they could if they wished, make additional submissions including photographs.
5. Subsequently to the above, the Tenants requested an oral hearing which was held by telephone on 29 July 2020.
6. Both parties requested reasons for the Tribunal’s decision.

## **THE PROPERTY**

7. From the information provided, and available, to the Tribunal, the Property comprises a mid-terraced house with the following accommodation arranged over two floors:

Two living rooms, three bedrooms and one bathroom.

The property benefits from gas fired central heating

It was agreed at the hearing that the Tenants had provided the carpets and curtains and also white goods to the Property.

## **Submissions of the Parties**

8. The submissions of the parties both in writing and during the telephone hearing can be summarised as follows.

9. The parties had provided details of the extensive works carried out to the Property. A copy email from an Environmental Health Officer representing Birmingham City Council dated 6 February 2020 was provided to the Tribunal which listed works considered necessary to bring the Property into reasonable order. During the hearing, the Landlord confirmed that in principle, these works had been completed. It was noted in the correspondence between the parties that the redecoration of the Property following the works was left to the Tenants.
10. There was extensive copy correspondence between the parties provided regarding the condition of the Property prior to these works being carried out. The Landlord explained that she inherited the Property in 2018 and had made vigorous efforts to gain access to the Property for contractors in order to improve the condition of the same. It was clear that the relationship between the parties was fractious however following the intervention of the Local Authority, the necessary works have largely been carried out.
11. The Tenants had submitted photographs of the Property. Some of these showed walls which had been damp proofed and re-plastered but then left bare. The Landlord was of the opinion that some of the other photographs, purportedly showing general disrepair may have been taken prior to the works being carried out.
12. The Tenants had provided details of Fair Rents in the locality. However, during the hearing, the Tribunal advised that these rents were set under the Rent Act 1977 and hence were not comparable. Evidence was also provided of a nearby Property let at £92.00 per week that was let by a Social Housing Provider. Again, the Tribunal advised that such a rent would not be comparable as it would be deliberately set below market rent levels.
13. The Tenants also stated that they had carried out general improvements to the Property including some kitchen fitments and to the garden.
14. The Tenants advised that they both suffered from poor health and low income and would be forced to apply for housing benefit.
15. The Landlord provided a copy of a letter from Rent in the Midlands, a property agent, stating that they were of the opinion that the rent for the property was in the order of £750.00 to £800.00 per calendar month.
16. The Landlord's submissions included details of properties from the Rightmove property portal of similar properties in the same vicinity as the subject in the range of £650.00 to £800.00 per calendar month (£150.00 per week to £184.62 per week).

17. The Landlord explained that in view of the circumstances relating to the Property and the tenancy, she had not sought a full rent but had proposed a more modest increase to £144.00 per week. The Tenants stated that a 44% increase was unreasonable.

## **THE LAW**

18. 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.
19. 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**

20. 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.
21. The Tribunal's determination considers what rent the landlord could reasonably be expected to obtain for the Property if it were let today in a condition usual for such lettings. It did this by using its own general knowledge of the market rent levels in north Birmingham and the evidence submitted. Taking all factors into account, the Tribunal concluded that the likely market rental would be £167.31 per week (£725.00 per calendar month). However, as the Property is not in the same condition as properties offered in the general market, the Tribunal makes a deduction of £10.00 per week.
22. To reflect the Tenants fittings (i.e. carpets and curtains and white goods), general improvements and decorating liability, the Tribunal makes a further deduction of £26.87 per week.
23. The rent determined by the Tribunal was, therefore, £130.44 per week, rounded to £130.00 per week.
24. The Tenants in their letter to the Tribunal dated 23 March 2020 requested that, as advised by the Citizens Advice Bureau, any change to the rent will not be imposed to after "our meeting with you" which the Tribunal interprets as being its determination. This was reiterated during the telephone hearing. The Tribunal considered this an application under section 14 (7) of the Housing Act

1988 relating to the backdating of any increase to the date specified in the Notice – 20 March 2020. Section 14 (7) states as follows:

*(7)Where a notice under section 13(2) above has been referred to the appropriate tribunal, then, unless the landlord and the tenant otherwise agree, the rent determined by the appropriate tribunal (subject, in a case where subsection (5) above applies, to the addition of the appropriate amount in respect of rates) shall be the rent under the tenancy with effect from the beginning of the new period specified in the notice or, if it appears to the appropriate tribunal that that would cause undue hardship to the tenant, with effect from such later date (not being later than the date the rent is determined) as the appropriate tribunal may direct.*

25. The Tribunal considered the Tenants poor health and circumstances and as it appears that the backdating of the increase would cause undue hardship, determines that the increase shall take effect from the date of the hearing, 29 July 2020.
26. The rent determined by the Tribunal for the purposes of Section 14 was, therefore, £130.00 per week with effect from 29 July 2020.

### **Appeal**

27. 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