



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

Case Reference : **BIR/00CN/MNR/2020/0031**

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

Property : **36 Towyn Road Birmingham B13 9NA**

Landlord : **P & K Properties Ltd**

Representative : **Adalat Khan**

Tenant : **Mark Evans**

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 : **22 July 2020**

Date of Decision : **22 July 2020**

Date of Statement of Reasons : **5 August 2020**

STATEMENT OF REASONS

BACKGROUND

1. By way of a notice dated 27 March 2020, the Landlord sought to increase the rental in respect of 30 Towyn Road, Birmingham B13 9NA to £199.00 per week under section 13 of the Housing Act 1988 (“the Act”) with effect from 4 May 2020.
2. The tenancy commenced on 11 October 1993 and the rent payable at the time of the notice was £115.00 per week.
3. By an application received on 27 April 2020, the Tenant 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 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 Landlord requested an oral hearing which was held by telephone on 22 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.

Rear garden.

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

*There was a dispute between the parties as to the size of the third bedroom. The Tenant was of the view that this room was not usable as a bedroom whilst the Landlord was of the contrary view. From the Tribunal’s experience of this type of Property, the third room is generally a small single bedroom suitable for a child.

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 Tenant had provided written submissions and photographs in connection with the condition of the Property which he felt was generally poor with particular reference to the verge fillets, gutters, roof slates, poor finishing around door openings and fence. The Landlord took exception to the Tenant's comments about the condition of the Property and stated that the reason that the Property was in a poor state of repair was because the Tenant had refused access to both to himself and contractors.
10. The Landlord had provided rentals of local comparable properties from the Rightmove property portal, these included the following:

Beaconsfield Road - £219 per week

Tudor Rd - £183 per week

Chandos Ave - £213 per week

The Landlord had also provided a copy of a document from Birmingham City Council which gave Local Housing Allowance rates for the period 1 April 2020 to 31 March 2021. For a property with three bedrooms, the rate was £155.34 per week.

11. It is clear from the submissions made to the Tribunal, that the relationship between the parties was fractious.

THE LAW

12. 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.
13. 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

14. 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.

15. 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 Birmingham and the evidence submitted. Taking all factors into account, the Tribunal concluded that the likely market rental would be £170.00 per week. However, as the Property is not in the same condition as properties offered in the general market, the Tribunal makes a deduction of £20.00 per week.
16. To reflect the Tenants fittings (i.e. carpets and curtains and white goods), and decorating liability, the Tribunal makes a further deduction of £20.50 per week.
17. The rent determined by the Tribunal was, therefore, £129.50 per week.
18. The rent determined by the Tribunal for the purposes of Section 14 was, therefore, £129.50 per week with effect from 4 May 2020.

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