



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

Case Reference : BIR/47UC/MNR/2021/0022

Property : 189 West Malvern Road, Malvern, Worcestershire, WR14 4BB

Applicant : Miss Rachael Jones

Represented by : Miss Rachael Jones

Respondent : Dr Louise Joyner

Represented by : Taylor Clarke

Type of Application : Appeal against Notice proposing a new rent for an Assured Periodic Tenancy under section 13(4) of the Housing Act 1988

Tribunal Members : Mr I.D. Humphries B.Sc.(Est.Man.) FRICS
Mr D. Douglas

Date and Venue of Hearing : Not Applicable, paper determination

Date of Decision : 28th June 2021

DECISION

- 1 The rent is determined at £850 (Eight Hundred and Fifty Pounds) per calendar month from 28th May 2021.

REASONS

Introduction

- 2 The tenant, Miss Rachael Jones, holds a monthly periodic assured shorthold tenancy of No.189 West Malvern Road, Malvern, Worcestershire, WR14 4BB, holding over from a tenancy granted for a term of one year from 28th August 2018.
- 3 By Notice dated 21st April 2021 the landlord, Dr Louise Joyner, through her agents Taylor Clarke, served notice of increase under section 13(2) of The Housing Act 1988 proposing a rent of £875.00 per month to take effect on 28th May 2021. Neither the previous nor proposed rents included any sums for Council Tax, water rates or fixed service charges.
- 4 On 16th April 2021 the tenant applied for the rent to be determined by the First-tier Tribunal (Property Chamber).
- 5 The rent was determined by written representations on 28th June 2021.
- 6 On 20th July 2021 the Tribunal received a request from the landlord for Reasons for the Decision.

The Law

- 7 Section 14 of The Housing Act 1988 states:

'(1) Where, under subsection (4)(a) of section 13 above, a tenant refers to a rent assessment committee a notice under subsection (2) of that section, the committee shall determine the rent at which, subject to subsections (2) and (4) below, the committee consider that the dwelling-house concerned might reasonably be expected to be let in the open market by a willing landlord under an assured tenancy -

- (a) which is a periodic tenancy having the same periods as those of the tenancy to which the notice relates;*
- (b) which begins at the beginning of the new period specified in the notice;*
- (c) the terms of which (other than relating to the amount of the rent) are the same as those of the tenancy to which the notice relates;...'*

'(2) In making a determination under this section, there shall be disregarded -

- (a) any effect on the rent attributable to the granting of a tenancy to a sitting tenant;*
- (b) any increase in the value of the dwelling-house attributable to a relevant improvement carried out by a person who at the time it was carried out was the tenant, if the improvement-*
 - (i) was carried out otherwise than in pursuance of an obligation to the immediate landlord ...*

- 8 The jurisdiction of the Rent Assessment Committee was transferred to the First-tier Tribunal (Property Chamber) from 1st July 2013.

Facts Found

- 9 Due to Government Covid restrictions the Tribunal was unable to inspect the property as part of the determination and relies on the descriptions and photographs in the parties' submissions. The Tribunal also relies on photographs taken outside the property showing the front of the house and surroundings available on line at Google Street view.
- 10 Based on this evidence, the property comprises a two storey semi-detached house set back from the pavement next to West Malvern Road. It is high on the hills, just south of the junction with Westminster Bank and south of property known as 'Regent's Theological College'. West Malvern Road is a single carriageway road with parking along the frontage and west facing views across Herefordshire.
- 11 The property has mock Tudor half timbered elevations and appears to be late Victorian or Edwardian.
- 12 According to the submissions, it has a hall, two reception rooms, kitchen, four bedrooms and bathroom. The accommodation is centrally heated but there is no double glazing. The landlord provided the cooker and hob but no other white goods. The property was let with carpets and window blinds but was otherwise unfurnished.
- 13 Outside, there is a courtyard and potting shed.

Submissions

- 14 Neither party requested a Hearing. The case has therefore been determined based on the written representations of the parties.
- 15 The Applicant's Submission
The Applicant provided a bundle of evidence detailing conversations with the landlord's letting agent over the last three years since the property was let, much of which was historic and as the Tribunal had been unable to inspect we were unable to discover if all the points had been addressed. A valuation for s(13) requires the Tribunal to value at the date of determination, i.e. 28th June 2021, and unless the parties supply evidence of the condition at that date the Tribunal is unable to comment on specific points raised in correspondence.

The bundle of evidence included a series of photographs, some of which were helpful but others were unfortunately too grainy to establish what they were meant to show. Most were not labelled or dated and of limited assistance to the Tribunal other than to show the general age and character of the building.

However, the bundle also included details of several houses advertised to let in the area as a comparison which was helpful and can be briefly summarised as follows:

<i>Ref.</i>	<i>Address</i>	<i>Asking Rent pcm £</i>
A	Sherrards Green Road, Malvern 3 bedroom Victorian semi-detached house.	£875
B	Jamaica Road, Malvern 3 bedroom 1930s semi-detached house.	£855
C	Upper Howsell Road, Malvern 3 bedroom 1930s semi-detached house.	£725

D	92 Somers Park Road, Malvern 3 bedroom Victorian end-terraced house.	£850
E	Orford Way, Malvern 3 bedroom 1970s semi-detached house.	£875
F	Swinyard Road, Malvern 3 bedroom modern semi-detached house.	£875
H	(There is no property 'G' in the bundle) Mountbatten Road, Malvern 3 bedroom modern semi-detached house.	£775
I	Fruitlands, Malvern 3 bedroom 1960s/70s semi-detached house.	£850

The Applicant put forward the evidence for consideration by the Tribunal supported by agents' details of the properties, but did not offer any particular level of rent as appropriate.

16 The Respondents' Submission

The Respondent's agents also put forward market evidence which was equally helpful , summarised below:

1	Somers Park Avenue, Malvern (Let agreed) 3 bedroom detached house with parking.	£950
2	Old Wyche Road, Malvern (Let agreed) 3 bedroom Victorian semi-detached cottage.	£950
3	14 Macauley Rise, Malvern (Let agreed) 3 bedroom modern semi-detached house with parking.	£915
4	Cowleigh Bank, Malvern (Under offer) 3 bedroom modern semi-detached house with garage.	£895

Decision

17 There was nothing offering identical accommodation to let in the immediate area that could be used for direct comparison and the Tribunal would have been surprised had there been anything available on these terms as the type of property and location are in many ways unique.

18 However, all the comparables were considered as they set the general level in the area and while the majority were asking rents, we have no reason to suspect they might be let at anything too far different from the advertised rates.

19 Some of the comparables were less relevant than others. Some of the modern houses for example offer more amenity and space, some in estate positions are closer to shops and public amenities and others have parking.

.../5

20 The Tribunal therefore took a balanced view and having considered all the relevant points made by the parties, determined the market rent for the purposes of section 13(4) of the Housing Act 1988 at £850.00 per calendar month on the terms of the 2018 tenancy agreement.

I.D. Humphries B.Sc.(Est.Man.) FRICS
Chairman

Appeal

If either party is dissatisfied with this decision an application may be made to this Tribunal for permission to appeal to the Upper Tribunal, Property Chamber (Residential Property) on a point of law only. Any such application must be received within 28 days after the decision and accompanying reasons have been sent to the parties (Rule 52 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013).