



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

Case Reference : **MAN/00CH/MNR/2021/0046**

Property : **260 Heaton Road,
Newcastle upon Tyne NE6 5QE**

Applicant : **Giorgio Fazio and Ilaria Zerilli**

Respondent : **Rosaleen Holmes**

Type of Application : **Application by the Tenant Referring a
Notice Proposing A New Rent Under an
Assured Periodic Tenancy Housing Act
1988 Section 14 (the “Act”)**

Tribunal Members : **I D Jefferson TD BA BSc FRICS
K Usher**

Date of determination : **8 September 2021**

DECISION

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Background

- 1 By way of an Application dated 30 April 2021 the Applicant, the Tenant of the Property, referred to the Tribunal an Application (the Application) referring a notice of increase in rent (the Notice) by the Landlord of the property under Section 13 of the Housing Act 1988.
- 2 The Notice is dated 19 March 2021 and proposed a new rent of £1,400.00 per month instead of the existing rent of £1,200.00 per month to take effect from 1st May 2021.
- 3 The Tribunal acknowledged receipt of the Application and fixed the date of 8 September 2021 to consider the matter. Neither Party requested a Hearing. Each Party was invited to submit representations to include photographs and all relevant details as due to Tribunal COVID restriction rules the Tribunal are not permitted to inspect internally. Representations were received from both parties, including a copy of the Tenancy Agreement, and detailed photographic Schedule of Condition/Inventory.
- 4 For reasons which will become clearer below the Tribunal do not intend to detail these submissions.

Inspection

- 5 The Tribunal inspected the Property externally. Again for reasons which will become apparent later the Tribunal do not intend to detail the Accommodation, nor deal with either the comparables put forward by either Party, nor indeed issue a Decision in respect of the rental value.

The Law

- 6 The Tribunal first had to determine that the Tribunal had jurisdiction to hear the Application by reference to the validity of the Notice, in order to determine a rent under S14 of the Act. In short the Tribunal must determine that the landlord's notice under Section 13 (2) satisfied the requirements of that section and was validly served.
- 7 The Act provides in section 13(2) as amended by the Regulatory Reform (Assured Periodic Tenancies) (Rent Increases) Order 2003 that the date in paragraph 4 of the Landlord's notice (the date the new rent becomes payable) must comply with three requirements.
- 8 The first requirement is that a minimum period of notice must be given before the proposed new rent can take effect.
- 9 The second requirement is that the starting date must not be less than 52 weeks after the date on which the rent was last increased using this procedure although there are exceptions to this.

- 10 The third requirement is that the proposed new rent must start at the beginning of a period of the tenancy (see paragraph number 17 of the Guidance Notes forming part of the prescribed form of the Landlord's Notice).
- 11 Section 14 of the Act requires the Tribunal to determine the rent at which it considered the subject property might reasonably be expected to be let on the open market by a willing Landlord under an Assured Tenancy in so doing the Tribunal is required by Section 14 (1) to ignore the effect on the rental value of the property of any relevant tenants' improvements as defined in Section 14 (2) of the Act.
- 12 Only if a landlord's notice complies with each of the requirements referred to above does a Tribunal have jurisdiction to determine a rent under section 14 of the Act.

The Tribunal's Decision

- 13 The Tribunal were provided with a copy of the original Assured Tenancy Agreement dated 23 November 2018 between the Landlord Mrs Rosaleen Holmes and the Tenants Giorgio Fazio and Ilaria Zerilli . The Agreement is stated to be for a term commencing 23.11.2018, ending 31.7.2019 at a commencement rent of £1,000 per calendar month. At paragraph 2 of the Agreement it is stated that the first rent payment shall be made on 23.11.2018, thereafter, payments are due on the first day of each month.
- 14 The Landlord's Notice stated the Landlord proposed a new rent of £1,400 per month in place of the existing one of £1,200 per month. The starting date for the new rent is stated to be 1 May 2021.
- 15 The appropriate procedure to initiate a proposed new rent is as set out in Section 13 of the Act.
- 16 The Tribunal find the Notice to be invalid for the following reason:

The Tenancy commenced on 23.11.2018, and the first rent payment was due on that date. Whilst future rent payments were to be made on the first day of each month that does not change the commencement date of the Tenancy. The Notice does not therefore comply with the third mandatory requirement of the Law as set out in paragraphs 6 to 12 above.
- 20 The Tribunal determine that the Landlord's Notice is invalid. The Tribunal therefore does not have jurisdiction to determine a rent under Section 14 of the Act.

ID Jefferson
8 September 2021