



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

Case Reference : BIR/00CN/MNR/2021/0077

Property : 73 Oldknow Road, Birmingham, West Midlands, B10 0JB

Applicants : Saima Akram and Muhammad Nasir

Respondent : Shazia Kulsum Ahmed

Type of Application : Appeal against a Notice proposing a new rent under 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 N.J. Wint B.Sc. FRICS ACI Arb

Date and Venue of Hearing : Video Hearing on 21st February 2022.

Date of Decision : 28th February 2022

REASONS FOR DECISION

Decision

- 1 The rent is determined at £700.00 (Seven Hundred Pounds) per month from 15th January 2022.

REASONS

Introduction

- 2 The tenants, Saima Akram and Muhammad Nasir, hold a monthly assured shorthold tenancy of a house known as 73 Oldknow Road, Birmingham, West Midlands, B10 0JB. The tenancy was granted on 15th April 2021 for six months at a rent of £550.00 per calendar month. The house is let unfurnished.
- 3 On 13th December 2021 the landlord served notice of increase under section 13(2) of The Housing Act 1988 proposing a rent of £725.00 per month to take effect on 15th January 2022. The tenants pay their own Council Tax and water rates.
- 4 On 27th December 2021 the tenants applied for the rent to be determined by the First-tier Tribunal Property Chamber.
- 5 On 29th December 2021 the Tribunal issued Directions requesting documents from the landlord by 18th January 2022 and comments from the tenant by 1st February 2022.
- 6 On 21st February 2022 the Tribunal inspected the property and held a video Hearing the same day. There was a question regarding the correct submission of evidence and counter-evidence and the Tribunal deferred its Decision until 28th February 2022 to allow for any further comments to be made. The Tribunal then proceeded to determine the rent at £700.00 per month on 28th February 2022 with effect from 15th January 2022.
- 7 On 7th March 2022 the Tribunal received a request for Reasons from the landlord.

The Law

- 8 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 ...'*

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

Facts Found

- 10 The Tribunal inspected the exterior of the property on 21st February 2022. Unfortunately, the interior could not be inspected as the tenant advised she had covid.
- 11 The property comprises a two storey end-terrace house in a street of similar houses in Small Heath, a residential area three miles to the east of Birmingham city centre.
- 12 According to papers submitted by the landlord, the house comprises two living rooms, a kitchen, three bedrooms and bathroom with central heating, double glazing, carpets, curtains and white goods provided by the landlord. It has a back garden that the Tribunal could see was overgrown. There is no off-road parking but street parking is available on both sides of the road.

Submissions

- 13 The Applicants' Submission
Mrs Akram for the Applicants based her case on the condition of the property and the following points in particular:

- 1 the side alley offered open access to the street as there was no lock on the gate;
- 2 the back garden was overgrown;
- 3 the bathroom had been partly renovated but was damp;
- 4 the kitchen had been partly renovated but was incomplete;
- 5 the back gate was insecure;
- 6 the first floor rooms needed decoration and
- 7 there was general damp in the house and the gutters needed cleaning.

The descriptions were supported by photographs submitted to the Tribunal that were not labelled, indexed or dated and it was difficult to establish the exact condition at the date of valuation.

No rents of comparable properties were offered in evidence.

- 14 The Respondent's Submission
Mrs Ahmed rebutted the Applicants' grounds as follows:

- 1 the side alley could not be locked as it is a shared access to the backs of neighbouring properties in addition to the subject house;
- 2 the back garden was the tenants' responsibility;
- 3 the damp was due to condensation from lack of ventilation, not ingress from outside;
- 4 the kitchen was in repair;

- 5 no particular comment was made;
6 any damp was due to lack of ventilation;
7 again, any damp was due to lack of ventilation due to the tenants' use of the house.

Mrs Ahmed submitted details of two houses for comparison; a terraced house in the same road that appeared similar, offered at £850 per month and a house nearby at No.207 Malmesbury Road, No.207, advertised at £700 per month with the comment 'This is similar to the properties on Oldknow Road.'

Decision

- 15 The Tribunal took account of the location, accommodation and condition of the property together with the parties' written submissions and video hearing evidence before reaching its decision.
- 16 Much had been made about the condition of the house but it appeared to the Tribunal from the photographs that some renovation had been carried out to the kitchen and bathroom and it was not disputed that the house offered central heating and double glazing. The condition could not be assessed in detail without internal inspection which was impossible in this case, but there was evidence of paint peeling from radiators and it had clearly not been completely refurbished.
- 17 Taking all points into account and using its own general but not specific knowledge of rental values in the area, the Tribunal determined the rent at £700.00 per calendar month under section 14 of The Housing Act 1988 from the effective date in the landlord's Notice, 15th January 2022.

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).