



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

Case Reference : **CAM/42UH/MNR/2022/0007
A:BTMMREMOTE**

Property : **Flat 3, 26 Lyndhurst Road, Lowestoft,
Suffolk, NR32 4PD**

Applicant : **Mr Richard Nash**

Respondent : **Parker Developments East
Anglia Ltd**

Date of Application : **3 February 2022**

Type of Application : **Determination of the market rent
under Section 14 Housing Act 1988**

Tribunal : **Mrs E Flint DMS FRICS**

**Date and venue of
Determination** : **19 April 2022
remote telephone hearing.**

DECISION

The market rent as at 19 April 2022 is £475 per month.

This has been a remote hearing which has been consented to by the parties. The form of remote hearing was A:BTMMREMOTE. A face-to-face hearing was not held because it was not practicable and all issues could be determined in a remote hearing. The documents that the Tribunal were referred to are in a bundle, the contents of which have been noted. The order made is described below.

Background

1. On 3 February 2022, the tenant referred to the Tribunal a notice of increase of rent served by the landlord under section 13 of the Housing Act 1988.
2. The landlord's notice, which was dated 27 January 2022 proposed a rent of £485 per month with effect from 1 April 2022.
3. The tenancy is an assured tenancy which commenced on 1 November 2020. Under the tenancy agreement the tenant is responsible for keeping the property in good and tenantable repair and in the same decorative order as at the commencement of the tenancy, fair wear and tear excluded; the premises must not be sublet nor may the tenant share possession of the flat or take in lodgers.
4. Directions were issued by the tribunal on 20 January 2022.
5. The parties consented to the matter being dealt with via a telephone hearing and both made written representations to the tribunal prior to the hearing.

The Evidence

6. The tenant referred to his written representations in which he had stated that the carpets were worn and the lino in the kitchen was curling near the sink, possibly due to a water leak. The walls in the kitchen and rear bedroom were damp, the latter was covered in artex and it was difficult to find out the cause of the dampness. He had been away for four days, on his return there was a strong smell of damp.
7. He considered that apart from the bathroom the condition of the flat was below the average. The kitchen units were about twenty years old, the cooker was small. The windows were replaced in 2019 however there were still draughts. The flat was last decorated about ten years ago. The neighbour had sealed the trap hatch between the properties from his side, the work had not been completed in respect of the subject flat. In addition, there appeared to be wildlife living in the roof space.
8. The curtains and white goods had been supplied by the tenant.
9. The carpets in the common parts are worn and there was a spindle missing on the staircase.
10. Mr Nash explained that he was struggling to pay the existing rent, an increase would make life more difficult.

11. Mr Parker, on behalf of the landlord agreed that the flat was not fully modernised. He explained that if the landlord carried out works of modernisation the company would expect to achieve a higher rent. It was in recognition of Mr Nash's personal circumstances that the flat had not been fully upgraded with a new kitchen, carpets and decorations.
12. Nevertheless, the flat was in a convenient location. It was a large flat with a living room, kitchen/diner, two double bedrooms and bathroom/wc.
13. He disputed that the flat was damp and was not aware of any problems regarding wildlife in the loft. He had not been aware that there were any issues with the carpets. He said he would ensure that the spindle on the staircase was replaced the following day.
14. The proposed rent was below the Local Housing Allowance of £503.62 per month. Two bedroomed flat were available for between £550 and £700 per month. A flat across the road which was fully modernised with white goods had been let for £675 per month.
15. Mr Parker had referred to very limited information in respect of four lettings of flats in Lowestoft at asking rents of £595 to £750 per month.
16. He was of the opinion that the rent of £485 per month reflected the condition of the flat. The landlord had indicated originally that it would be willing to negotiate however Mr Nash had applied to the tribunal and not sought to discuss the proposed increase.
17. Mr Parker confirmed that he would not object to the rent increase taking effect from the date of the hearing in view of the tenant's personal financial circumstances.

The law

18. In accordance with the terms of section 14 Housing Act 1988 the Tribunal proceeded to determine the rent at which it considered that the subject property might reasonably be expected to be 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), ignored the effect on the rental value of the property of any relevant tenant's improvements as defined in section 14(2) of that Act.

Valuation

20. The flat is located approximately 1.25 miles north of the town centre, within easy walking distance of the sea front. It is on the second floor of a three storey converted semi-detached house. The accommodation comprises three rooms, kitchen and bathroom/wc. It is centrally heated and double glazed.
21. Apart from the bathroom/wc the parties agree that the flat is unmodernised, the carpets were laid a number of years ago and the decorations are dated.

22. In coming to its decision, I had regard to the evidence supplied by the landlord. The comparables were superior in terms of modernisation to the subject premises and generally benefited from white goods, floor coverings and blinds or curtains. Although one was in the same street as the subject, the other three were either closer to the town centre or situated to the south of the town centre, including one which had sea views. The highest rent was in respect of a flat in modern purpose built block.
23. I concluded that the rent at which the property might reasonably be expected to be let on the open market would be £550 per month. The open market rent is on the basis that the flat is in the condition usually found in open market lettings. However, the flat is not in that condition as the kitchen requires updating, the decorations are some ten years old, the carpets are worn, and the curtains and white goods are the tenants.
24. I have deducted £75 from the open market rent to reflect these matters together with the terms of the which prohibit sharing the accommodation.

The decision

25. The rent of £475 per month will take effect from 19 April 2022 as to backdate the increase would cause undue hardship to the tenant.

Chairman: Evelyn Flint

Dated: 21 April 2022

ANNEX - RIGHTS OF APPEAL

- i. If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber) then a written application for permission must be made to the First-tier Tribunal at the Regional office which has been dealing with the case.
- ii. The application for permission to appeal must arrive at the Regional office within 28 days after the Tribunal sends written reasons for the decision to the person making the application.
- iii. If the application is not made within the 28 day time limit, such application must include a request for an extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed despite not being within the time limit.
- iv. The application for permission to appeal must identify the decision of the Tribunal to which it relates (i.e. give the date, the property and

the case number), state the grounds of appeal, and state the result the party making the application is seeking.

Appendix Housing Act 1988

14 Determination of rent by rent assessment committee.

(1) Where, under subsection (4) (a) of section 13, 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; and
- (d) in respect of which the same notices, if any, have been given under any of Grounds 1 to 5 of Schedule 2 to this Act, as have been given (or have effect as if given) in relation to 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 his immediate landlord, or
 - (ii) was carried out pursuant to an obligation to his immediate landlord being an obligation which did not relate to the specific improvement concerned but arose by reference to consent given to the carrying out of that improvement; and
- (c) any reduction in the value of the dwelling-house attributable to a failure by the tenant to comply with any terms of the tenancy.

(3) For the purposes of subsection (2)(b) above, in relation to a notice which is referred by a tenant as mentioned in subsection (1) above, an improvement is

a relevant improvement if either it was carried out during the tenancy to which the notice relates or the following conditions are satisfied, namely—

(a) that it was carried out not more than twenty-one years before the date of service of the notice; and

(b) that, at all times during the period beginning when the improvement was carried out and ending on the date of service of the notice, the dwelling-house has been let under an assured tenancy; and

(c) that, on the coming to an end of an assured tenancy at any time during that period, the tenant (or, in the case of joint tenants, at least one of them) did not quit.

(4) In this section “rent” does not include any service charge, within the meaning of section 18 of the Landlord and Tenant Act 1985, but, subject to that, includes any sums payable by the tenant to the landlord on account of the use of furniture or for any of the matters referred to in subsection (1) (a) of that section, whether or not those sums are separate from the sums payable for the occupation of the dwelling-house concerned or are payable under separate agreements....

(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 ... 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.

