



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

Case Reference : MAN/00BM/MNR/2021/0108

Property : 78 Prettywood. Bury BL9 7HX

Tenant : Danny Brooks

Landlord : James Connolly

Type of Application : s13 Housing Act 1988

**Tribunal Members : Judge J White
Valuer S Wanderer**

Date of Decision : 15 August 2022

Date of Reasons : 21 October 2022

DECISION

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The Decision

By a decision dated 15 August 2022, the Tribunal determined, in accordance with section 14 of the Housing Act 1988, that the open market rent for the Property is £900 per month.

The Background

1. The Tenant entered into the Assured Shorthold Tenancy of 78 Prettywood, Bury BL9 7HX (the Property) on 20 March 2015 at a rent of £650 per month. By a notice dated 7 August 2021, (“the Notice”), the Landlord proposed a new rent of £1,250 per month to take effect from 20 September 2021. The previous rent being £770. No additional services are provided.
2. By an application dated 14 August 2021, the Tenants referred the Notice to the Tribunal.

The Property and Inspection

3. Following notification to the parties, the Tribunal attempted to gain access to inspect the Property on 16 August 2022 at 11 am and 12.15. No one appeared to be in the Property and we made an external inspection. These findings are based on that inspection, and evidence submitted by both parties. We had sufficient evidence, along with our own expertise and knowledge to reach a decision.
4. The Tenant provided the following evidence about the Property. This was not contradicted by the Landlord, was cogent and credible and so was accepted by the Tribunal.
5. The Property is a four bedroom end of terrace circa built c.1900. On the first floor is 1 living room, dining room, kitchen and toilet. On the first floor is 3 bedrooms and a bathroom. There is a fourth bedroom that is described as a box room.
6. To the front is a small area. To the back was a graveled yard that the tenant laid to lawn. There is a piece of land to the side that was derelict and unfenced at the start of the tenancy. This had contained old furniture, rubble and other dumped items, along with perennial weeds. The Tenant cleared the area, fenced it and again laid it to lawn. This piece of land is not part of the demised Property let to the Tenant, as evidenced by the Land Registry title plan, supplied by the tenant. It is not clear who owns this land.
7. The Property was let unfurnished with dirty carpets and in need of decoration. The tenant cleaned the carpets and decorated at the start of the tenancy. Since then the Tenant has carried out further improvements, including insulating the loft, adding sealant to a window, repairing a burst pipe in the garden.
8. The roof leaks intermittently, leaving stained paintwork.
9. From its external inspection, the Tribunal noted that the property is an end terrace house of traditional construction of brick elevations beneath a slate roof. There is a UPVC front door and double glazing to the front of the Property.
10. The location of the Property is on a busy main road near the M60 motorway. It is part of a short row of houses surrounded by commercial properties with limited parking on a piece of derelict land.

The Law

11. The Tribunal must first determine that the Landlord's notice under section. 13(2) satisfied the requirements of that section and was validly served.
12. The Housing Act 1988, section 14 requires the Tribunal 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.
13. 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 tenant's improvements as defined in section 14(2) of that Act.
14. Section 14(4) provides that for the purposes of section 14 "rent" includes amongst other things any sums payable to the landlord by the tenant in respect of council tax.
15. Section 14(4) provides that for the purposes of section 14 "rent" does not include a "service charge" within the meaning of section 18 Landlord and Tenant Act 1985 (i.e. where in accordance with the terms of the tenancy or other agreement a service charge payable by the tenant is variable from time to time according to changes in the relevant costs). However, it does include a "fixed" service charge.

Tribunals Deliberations

16. The Tribunal determined the Notice to be valid.
17. The Tribunal had to assess the rent in accordance with Section 14 Housing Act 1988, being the Rent at which the Tribunal considered that the subject property might reasonably be let on the open market by a willing landlord under an assured tenancy. In doing so it must comply with section 14 (1) of the Housing Act 1988 as referred to above.
18. The Tribunal accepted the Tenants evidence as set out above. Neither party stated the Property was particularly modernised or dated.
19. The Tribunal considered that the Landlord's evidence of an estimated rental range was limited to Properties that were rented over £1250, over a very wide area and so were of limited value.
20. Using our own knowledge and experience of market rent levels in the relevant area we determined that the market rent for a similar dwelling in a similar locality could rent from £850 for 3 bedroom to £1,095 and above for 4 bedroom modernised properties. We therefore determined that, excluding the tenants improvements, the market rent is £950. We have deducted £50 for neglect as set out above. The open market rent is £900 per month.
21. This rent will take effect from 30 September 2021, being the date stipulated in the Notice. The Tenant has not provided evidence of hardship

Judge White

21 October 2022

Rights of appeal

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

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.

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.

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.

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.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).