



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

Case Reference : **CAM/26UG/MNR/2023/0003**

Property : **7 Shakespeare Close, St Albans, Hertfordshire
AL4 0FY**

Applicant (Tenant) : **Timothy Koncar**

Respondent (Landlord): **Julie Peacock**

Type of Application : **Determination of a market rent under
Section 13 of the Housing Act 1988**

Tribunal Members : **Judge JR Morris
Ms A. Flynn DMS FRICS**

Date of Decision : **6th March 2023**

DECISION

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DECISION

1. The Tribunal determined that a market rent for the Property in its present condition is £2,850.00 per calendar month to take effect from 15th December 2022.

REASONS

THE PROPERTY

2. The Property is a modern recently constructed three-storey semi-detached house of brick elevations under a pitched concrete tile roof with a dormer window set in the rear roof and roof lights to the front and back. All elevations are brick. The front door is composite and the windows are upvc frames with double glazed units, as are the French doors to the kitchen/dining room which open onto the garden. There is a garage in a separate block with hard standing in front of it to the rear of the Property. The garden is enclosed by a timber fence with a gate giving access to the street. There is a small border to the front and side of the house.

Accommodation

The developer's description of the interior of the Property (referred to as the Lumley style house) was provided which corresponded to the description given by the

parties and as seen by the Tribunal at the inspection. The Property comprises, on the ground floor, a hallway with stairs rising to the first floor, a cloakroom with wash hand basin and w.c., an understairs cupboard, a living room (3.94 x 3.72 m), a kitchen/dining room (5.51 x 2.84 m) off which is a utility room. On the first floor there are three bedrooms (3.94 x 4.25 m with ensuite; 2.90 x 2.90 m; 2.90 x 2.53 m) and a bathroom. On the second floor there is one bedroom (4.22 x 3.46 m) and an ensuite. There are storage cupboards on each floor and one of the bedrooms has a built-in wardrobe.

Services

Space and water heating is by a gas fired central heating system. The Property has mains electricity, gas, water and drainage.

Furnishing

The Property is let unfurnished. Floorcoverings are provided. There are integrated white goods in the kitchen of oven and hob, dishwasher and fridge freezer and a washing machine in the utility room. There are blinds on all the windows except one.

Location

The Property is situated in a new residential estate on the periphery of St Albans.

THE TENANCY

3. The Tenancy commenced as a contractual monthly periodic Assured Shorthold Tenancy on 15th November 2020 for a period of 12 months at a rent of £2,450.00 per calendar month and continued thereafter as a statutory tenancy on the same terms. Section 11 of the Landlord and Tenant Act 1985 applies in respect of the Landlord's repairing obligations. The Tenancy Agreement did not contain a restriction on the use of the garage or hardstanding or on the number of tenants.

THE REFERRAL

4. The current rent is £2,450.00 per calendar month. By a notice in the prescribed form dated 14th November 2022 the Landlord proposed a new rent of £2,850.00 per calendar month from 15th December 2022.
5. On 10th December 2022 the Tenant referred the notice proposing a new rent to the Tribunal. Directions were issued on 4th January 2023 informing the parties that the Tribunal did not intend to hold an oral hearing unless a request was made by 8th February 2023. Neither party made a request for a hearing. The Parties completed the Reply Form attached to the Directions. An inspection took place on 6th March 2023.

THE LAW

6. The relevant law is in section 14 of the Housing Act 1988 which is summarised below.
7. By virtue of section 14 (1) Housing Act 1988 the Tribunal is to determine a rent at which the dwelling-house concerned might reasonably be expected to be let in the open market by a willing landlord under an assured periodic tenancy-
 - (a) 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 rent) are the same as those of the subject Tenancy
8. By virtue of section 14 (2) Housing Act 1988 in making a determination the Tribunal shall disregard –
- (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 (as defined by section 14(3) Housing Act 1988) carried out by a tenant otherwise than as an obligation; and
 - (c) any reduction in the value of the dwelling-house due to the failure of the Tenant to comply with any terms of the subject Tenancy.
9. Nothing in section 14 affects the right of the landlord and the tenant under an assured tenancy to vary by agreement any term of the tenancy (including a term relating to rent).

CONDITION

10. The Tribunal inspected the Property on 6th March 2023. The Tenant admitted the Tribunal but not the Landlord. The Tribunal made it clear to both parties at the front door of the Property that it would only take evidence by viewing the Property and that no oral evidence would be accepted. The Tenant worked at his computer while the Tribunal inspected the interior of Property. The Tribunal walked around the outside of the Property noting the garden, garage and hardstanding. The Tribunal noted the CCTV which was installed by the Tenant. Both parties said they did not have a key to the garage. No obstruction was found preventing the hardstanding in front of the garage being used.
11. Externally, the Property is in good condition. The garden is laid to lawn and was in fair condition for the time of year.
12. Internally, the kitchen is modern as were the two ensuite shower rooms and the bathroom. All were in good condition and had extractor fans. The decoration was in good to fair condition as were the floor coverings subject to fair wear and tear.

REPRESENTATIONS

13. The Parties made lengthy written representations together with some photographs.

Tenant's Representations as to Condition

14. The Tenant said:
- He was a vulnerable person with a physical disability.
 - He had received a Notice of eviction that had been served on him under Section 21 of the Housing Act 1988.
 - The Landlord did not have an agent and the Tenant felt he had been harassed.
 - He had been prevented from sharing the house with other members of his family and was not allowed his therapy dog.
 - There had been problems with the boiler and other repairs were required

which took a long time to be done as they were undertaken by the house builder under warranty.

- The locks had been changed on the garage and he had been told not use the off-street parking.

15. The Tenant gave details of the alleged instances of harassment and referred to CCTV video footage and an account of his health problems.
16. The Tenant referred to a number of repairs that had needed to be carried out including a broken window handle, a defective shower and parts to the boiler. These had now been repaired but only after a wait of two or more weeks.
17. The Tenant said he had installed a blind in one of the bedrooms which was missing.

Landlord's Representations as to Condition

18. The Landlord said that she had purchased the Property from new in 2020 and had installed new floor coverings at a cost of about £9,000.00. She said the Property was in pristine condition when the Tenant moved in.
19. The Landlord said that the rental value of the Property was enhanced due to its proximity to a particularly good school.
20. The Landlord stated that she had been put to unnecessary expense by the Tenant claiming repair works were required when they were not. Some repairs were needed but she alleged these were due to the Tenant's misuse. She said that the presence of the Tenant's two dogs had caused damage to the decorations.
21. The Landlord said that she felt she had been harassed by the Tenant and that he had not been truthful. She said that the Tenant had not been locked out of the garage and that he had not been prevented from using the parking space in front of the garage.
22. The Landlord said that she had purchased the house as her family home and intended to now return to live in it.

Tenant's Representations as to Rental Value

23. The Tenant provided the rental values for properties which he said were comparable. The copies of the Internet details from Rightmove were not at all clear although the following could be discerned:
 - Tithe Barn Close, St Albans, a detached house on two floors comprising downstairs shower room with w.c., lounge, separate dining room, kitchen with appliances and conservatory, four bedrooms, bathroom with shower over bath, rear garden with patio and shed storage, garage let at £2,395 per calendar month.
 - Brightview Close, Bricket Wood, a detached house on two floors comprising living room kitchen, four bedrooms bathroom, rear garden and garage let at £2,400 per calendar month.
 - Burnham Road, St Albans, Clarence Park area, an Edwardian end of terrace house on three floors comprising living room, kitchen, four bedrooms, two bathrooms, garden and on street permit parking, let at £2,450.00.

- Branch Road, Napsbury Park, London Colney, a detached house comprising downstairs shower room, living room, kitchen, conservatory, five bedrooms, bathroom, rear garden, parking for several cars and two garages, let at £2,300.00 per calendar month.
- Victoria Street, St Albans, a Victorian end of terrace house comprising two reception rooms, separate kitchen, four bedrooms, bathroom rear garden and an off-street parking space nearby. Basement and loft excluded from the tenancy, let at £2,250 per calendar month.
- Mile House Lane, St Albans, a detached house constructed in 2013 comprising living room, kitchen, five bedrooms and two bathrooms and shared garden, let at £2,550.00 per calendar month.

Landlord's Representations as to Rental Value

24. The Landlord referred to the Tenant's rental values as follows:
- Tithe Barn Close is in the Cottonmill area of St Albans which is the least desirable and has a reputation of anti-social behaviour and a poor school.
 - Brightview Close, Bricket Wood, is outside St Albans where rental values are a lot lower as they are in less desirable areas with less good schooling.
 - Burnham Road, St Albans, Clarence Park area is an older property.
 - Branch Road, Park Street, Napsbury Park is in London Colney which is a cheaper rental area on the outskirts of Saint Albans and also has poor schooling.
 - Victoria Street, St Albans is an older property with no garage or off-street parking and was said to be in awful condition.
25. All the houses selected are older and do not have new floor coverings, new white goods etc.
26. The Landlord submitted the following rental valuations from agents, although none had seen the Property:
- Hamptons £3,500.00 per calendar month due to the proximity of a particular school.
 - Ashtons £3,000.00 - £3,250.00 referring to a 4-bedroom detached house with double garage recently let in Kay Walk for £3,500.00 and clients looking for similar properties.
27. The Landlord submitted details of a 4-bedroom semidetached house in Blandford Road, St Albans with an asking rent of £3,000.00 per calendar month.

DETERMINATION

28. The Tribunal determines a market rent for a property by reference to rental values generally and to the rental values for comparable properties in the locality in particular. The Tribunal does not take into account the present rent and the period of time for which that rent has been charged nor does it take into account the percentage increase which the proposed rent represents to the existing rent.
29. The Tribunal only has jurisdiction to determine the rent. The Tribunal cannot take into account the personal circumstances of either a tenant or landlord. Therefore, the Tribunal cannot consider:

- The vulnerability of a person or any disability that a person may have or their financial situation
 - Whether an eviction notice under Section 21 of the Housing Act 1988 has been served and the reasons for such service or the hardship that might be related to the notice.
 - Whether either a tenant or landlord feels he or she is being harassed or whether there has been an alleged breach of the Tenancy Agreement which does not affect the rent.
30. The Tribunal only considers whether a term of the tenancy is so onerous as to affect the rent. The Tenancy does not restrict the number of tenants save as to what would be lawful. There is no restriction on the use of the garage or the parking space in front of the garage. If there is a dispute as to whether the tenant or landlord has a key to the garage this is a matter to be settled between them. The parking space was open and the Tribunal did not find any obstruction to its use by the Tenant. The Tenancy agreement does not prohibit the keeping of a dog but if it did the Tribunal did not find that in the circumstances it affected the rental value of the Property.
31. Any breach by a tenant of the Tenancy Agreement that affects the rent such as damage to decorations or fittings is disregarded. The Tribunal did not find any such breach.
32. The Tribunal assesses a rent based on the condition of the Property as at the time of the determination. Therefore, it cannot take into account the period of time which a property might have been in disrepair prior to work being carried out by the Landlord. Equally, it cannot take into account work which the Landlord said it is intended to undertake or is scheduled to take place in the future. With regard to the carpets, blinds and white goods the Tribunal determines their value to the tenant not their capital cost.
33. The Tribunal noted that the Tenant had fitted a blind in one of the bedrooms and this is disregarded in assessing the rent as a tenant's improvement although in this instance the impact on the rent is *de minimus*.
34. The Tribunal does not take into account any disputes between the Tenant and the Landlord or photographs that depict persons and not the property as these do not relate to the condition of the property upon which the rent is based.
35. The Tribunal considered the properties which the tenant submitted as being comparable to the Property. The Tribunal found that they provided a guide as to rental values generally in St Albans and its environs being over £2,250.00 per calendar month for four-bedroom houses like the Property. However, it found them far less helpful in determining the rental value for the specific type of house in its particular locality. It found that the properties identified in Burnham Road and Victoria Street, St Albans were older properties and those in Branch Road, London Colney and Brightview Close, Bricket Wood were situated in different areas outside St Albans and therefore not a good comparable to the Property. The houses referred to in Tithe Barn Close and Mile House Lane are situated in St Albans and share similarities to the Property but are not directly comparable.
36. The Tribunal agreed with the comments of the Landlord as to the differences of age, type and locality of the houses identified by the Tenant from the Property, however, it found that the Landlord placed undue emphasis upon the significance of schools.

This is only one factor that a prospective tenant might take into account in selecting a suitable home to rent.

37. The Tribunal determined the rent for the Property as being based upon rents for comparable four-bedroom properties in the locality that are recently built with modern facilities of cloakroom, kitchen with white goods and bath and ensuite shower rooms. Such properties are constructed with central heating and double glazing as standard. The Tribunal was of the opinion that the agents consulted by the Landlord were, without viewing the Property, over optimistic in setting a rent between £3,000 and £3,500.00 per calendar month. Houses achieving rents between those figures are usually detached or have a conservatory. A rent of between £2,500.00 and £3,000.00 was felt more appropriate. The Tribunal determined that the Landlord might reasonably expect to let the Property on the open market for the proposed rent of £2,850.00 under the present assured periodic tenancy.
38. The Tribunal determined that a market rent for the Property in its present condition is **£2,850.00 per calendar month to take effect from 15th December 2022.**

Judge JR Morris

Caution: The Tribunal inspected the Property for the purposes of reaching this decision. The inspection was not a structural survey and any comments about the condition of the Property in this statement must not be relied upon as a guide to the structural or other condition of the property.

APPENDIX - RIGHTS OF APPEAL

1. If a party wishes to appeal the 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.
2. 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.
3. 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.
4. 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.