



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

Case reference : **BIR/OOFN/MNR/2023/0098**

Property : **9 Herschell Street
Leicester
LE2 1LE**

Applicant : **Fatima Hanif Vindhani**

Representative : **None**

Respondent's : **Mahesh Kumar Chadha**

Representative : **None**

Type of application : **Application under Section 13(4) of the
Housing Act 1988 referring a notice
proposing a new rent under an Assured
Periodic Tenancy to the Tribunal**

Tribunal members : **Mr G S Freckelton FRICS
Mr D Douglas**

**Venue and Date of
Determination** : **The matter was dealt with by a Video
Hearing on 29th August 2023**

DETAILED REASONS

© Crown Copyright 2023

BACKGROUND

1. On 14th May 2023, the Applicant (tenant of the above property) referred to the Tribunal, a notice of increase of rent served by the Respondent (landlord of the above property) under section 13 of the Housing Act 1988.
2. The Respondent's notice, which proposed a rent of £925.00 per month with effect from 1st May 2023, is dated 13th March 2023.
3. The date the tenancy commenced is stated on the Application Form as being on 25th June 2005 and is stated by the Applicants as being an Assured Tenancy. The current rent is stated in the Respondents notice as being £700.00 per month.
4. The Tribunal issued its Decision following the inspection and video hearing on 29th August 2023. Both the Applicant and the Respondent subsequently requested written reasons and these detailed reasons are provided in response to that request.

INSPECTION

5. The Tribunal carried out an inspection of the property which comprises a mid-terraced house of traditional brick construction surmounted by a pitched slate roof.
6. Briefly the accommodation comprises of front lounge with gas fire, separate dining room with stairs off to the first floor and store under and kitchen with a range of fitted base and wall cupboards. A rear lobby off the kitchen leads to the rear yard and to the bathroom with a three-piece sanitary suite comprising of a bath, was hand basin and low-level W.C.
7. On the first floor the landing leads to two double bedrooms and one single bedroom.
8. The house has gas fired central heating provided by a wall mounted boiler located in the kitchen. There is upvc double glazing.
9. Externally the property is built up to the pavement. There is a very small private rear yard.
10. During the inspection the Tribunal noted that there was evidence of mould to areas of the lounge and dining room. Damp was also noted to the two double bedrooms which may, at least in part, be caused by a leaking/blocked gutter. There was an area of plasterwork to the kitchen which had fallen off the wall.

EVIDENCE

11. The Tribunal received written representations from the Parties which was copied to the other party.
12. A video hearing was arranged following the inspection attended by the Applicant and the Respondent's son.
13. The Respondent had made written submissions received by the Tribunal and the Applicant on the morning of the inspection and hearing. This was in contravention of the Tribunal's Directions. The Tribunal explained the position to the parties following which a discussion took place and the Applicant confirmed that she was prepared for the Respondent's late submissions to be considered.

THE APPLICANT'S SUBMISSIONS

14. In summary in writing and at the hearing the Applicant submitted:

- 1) That the rent requested was excessive.
- 2) That the Respondent had not carried out any work to the property in the last seventeen years.
- 3) That the mould problem had been reported to the Respondent but following an inspection it was proposed to install a chemical dampproof course which was unacceptable to the Applicant as the chemicals could adversely affect her family and she was unable to move out while the work was completed.
- 4) When questioned by the Tribunal the Applicant was unable to provide any evidence of rents in the area to support her submission that the rent proposed was too high.

15. In summary in writing and at the hearing the Respondent's Representative submitted:

- 1) That he had always tried to sort matters out but the Applicant had been obstructive.
- 2) That rents in the area had increased considerably although no actual comparables were provided to the Tribunal.
- 3) That the Respondent was looking to sell the property and move to be near his family in London.
- 4) That he had offered to decorate in 2019 but was told by the Applicant that they were happy with it as it was.
- 5) That he was anxious to carry out work to deal with damp but could not obtain confirmation from the Applicant as to when they could start.
- 6) That the mortgage payments had increased considerably and the present rental of £700.00 per month meant that he was subsidising the cost of the property from his own pocket.

16. The Tribunal explained to the parties that their jurisdiction was limited to the determination of the rental value of the property in its present condition on the day of the inspection.

THE LAW

17. 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.

18. 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.

THE TRIBUNAL'S DECISION

19. At the hearing the Applicant submitted that the cooker was provided by the Respondent but that the other white goods were hers.

20. The Tribunal determined that if the property was to be marketed at the present time, then considerable improvement and upgrading would be required to deal with the

mould/damp. In addition, the condition of the kitchen is poor and as noted, there is plaster falling off an area of the kitchen wall.

21. In coming to its decision, the Tribunal had regard to the members' own general knowledge of market rent levels in the area of Leicestershire.
22. Having regard to the general level of rents in the area the Tribunal concluded that if the subject property had been in good condition the market rental value would have been £925.00 per month.
23. The Tribunal then made the following adjustments to reflect the improvements carried out by the Applicant:

1) White Goods	12.00 per month
----------------	-----------------

24. However, the property as inspected by the Tribunal was not in the condition that would be expected in the open market and the Tribunal therefore also made the following deductions to reflect the condition of the property as follows:

1) Damp to ground floor walls	20.00
2) Damp to first floor ceilings	20.00
3) Refit to kitchen	35.00
4) <u>Plaster falling off kitchen wall</u>	<u>15.00</u>
Total	£90.00 per month

25. The Tribunal therefore concluded that an appropriate market rent for the property would be £823.00 per month (£925.00 - £12.00 - £90.00).
26. The Tribunal therefore determined that the rent at which the property might reasonably be expected to be let on the open market would be £823.00 per month.
27. Although the Applicant stated that the rent proposed was excessive the Tribunal was not provided with evidence of hardship under s14(7) of the Act and after consideration determined that the rent should be effective from 1st May 2023 being the date on the Respondents notice.

APPEAL

28. Any appeal against this Decision can only be made **on a point of law** and must be made to the Upper Tribunal (Lands Chamber). Prior to making such an appeal the party appealing must apply, in writing, to this Tribunal for permission to appeal within 28 days of the date of issue of this Decision, (or, if applicable, within 28 days of any decision on a review or application to set aside) identifying the decision to which the appeal relates, stating the grounds on which that party intends to rely in the appeal, and stating the result sought by the party making the application.

G S Freckelton FRICS
Chairman
First-tier Tribunal Property Chamber (Residential Property)