



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

Case Reference : **BIR/00CN/MNR/2022/0014**

Property : **Flat 9 Anton Court, 329 Hagley Road
Birmingham B17 8ND**

Landlord's Agent : **John Shepherd Lettings**

Tenant : **Kelly Finglas**

Type of Application : **An Application for a Determination under
Section 14 of the Housing Act 1988**

Tribunal Members : **Nicholas Wint BSc Hons FRICS
Derek Douglas**

Date of Decision : **2 June 2023**

STATEMENT OF REASONS

BACKGROUND

1. By way of a notice dated 2 December 2022, John Shepherd Lettings on behalf of the Landlord, sought to increase the rental in respect of 9 Anton Court, 329 Hagley Road Birmingham B17 8ND (“the Property”) to £650 per month under section 13 of the Housing Act 1988 (“the Act”).
2. The rent payable at the time of the notice was £475 per month.
3. By an application dated 5 December 2022, Kelly Finglas (“the Tenant”) referred the Notice of increase of rent served by the Landlord to the Tribunal.
4. The Tribunal issued its Directions dated 12 January 2023 and listed the case on 2 June 2023 carrying out an internal inspection on the same day. A VHS (Video Hearing Service) was also held after the inspection which both parties attended.
5. Both parties completing the standard Reply Form. The Landlords agent included reference to several similar properties in the area in support of their rental proposal however no specific evidence was submitted by the Tenant.
6. After consideration of the available evidence and the applicable law, the Tribunal determined a rental of £650 per month.
7. Upon receipt of the decision the Tenant requested the Tribunal provide reasons. These written reasons should therefore be read in conjunction with the Decision of the Tribunal dated 6 July 2023.

THE PROPERTY

8. The Property is located approx. 2 miles west of Birmingham city centre on the A456 Hagley Road on the edge of Harborne.
9. The accommodation briefly comprises a third floor flat situated within a three-storey residential block comprising a hall, living room, kitchen, bathroom double bedroom and airing cupboard. Heating is provided by electric wall-mounted heaters and the property has double-glazed windows. Parking is provided via a communal parking area to the rear and there is some external gardens and a laundry area.
10. The only means of access to the flat is via a communal staircase. There is no lift.
11. The Tenant advises she supplied the fridge and washing machine and replaced the flooring in the kitchen and carried out some redecoration. The Landlord has confirmed they have supplied all the carpets and curtains as well as a cooker. No

other improvements have been carried out to the Property by either the Landlord or Tenant since it was first let.

12. On its inspection the Tribunal found the Property to be in reasonable condition but considered it needed updating, in particular the kitchen and bathroom. The Tribunal also noted cracks in the ceiling of the bedroom and were advised the cooker was not working.

EVIDENCE

13. Apart from the Reply Form the Tribunal did not receive any other written representations from the Tenant. The Landlord's agent submitted their Reply Form and included evidence of various similar properties from the area in support of their rental proposal.
14. At the hearing the Landlord's agent went through their evidence and explained the reasons for their conclusions. The Tenant was also given the same opportunity and cross examined the Landlords evidence in order to put forward her case.

THE LAW

15. 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 ...
- 16. The jurisdiction of the Rent Assessment Committee was transferred to the First-tier Tribunal (Property Chamber) from 1st July 2013.
- 17. In accordance with the terms of section 14 of the Housing Act 1988 the Tribunal must determine the rent at which it considers that the subject property might reasonably be expected to 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), must ignore the effect on the rental value of the property of any relevant tenant's improvements as defined in section 14(2) of the Act.

VALUATION

- 19. In reaching its determination, the Tribunal has had regard to the evidence and submissions of the parties, the relevant law and their own knowledge and experience as an expert Tribunal but not any special or secret knowledge.
- 20. In the first instance, the Tribunal determined what rent the landlord could reasonably be expected to obtain for the Property if it were let today in the condition that is considered usual for such an open market letting.
- 21. The Tribunal, as an expert Tribunal, has also used its own general knowledge of market rental levels in the area and from its own research into rental values for similar types of property from the surrounding areas. The Tribunal has also had regard to the location, accommodation, and condition/ disrepair of the Property in relation to the evidence it considered.
- 22. At the hearing the Landlord's agent advised that they had had regard to various property letting websites and their own data base of lettings from the block itself which they have undertaken. They also advised that they understand the Tenant has been in occupation for a considerable period and although they were of the view the market rent is in the order of £700 per month were prepared to accept £650 per month to reflect the Tenant's longstanding occupation.
- 23. As regard specific evidence the Landlord's agent referred the Tribunal to details of similar 1-bedroom flats on Manor Road at £795pcm, Hagley Road at £725pcm, Holly Road at £750pcm, Stanmore Road at £750pcm, St. Lawrence House at £795pcm, and two lettings at Anton Court at £650pcm each and another in Anton Court which is currently on the market at £725pcm

24. The Tenant questioned the Landlord's agent's evidence on the basis that Manor Road was furnished and not strictly comparable. The Tenant also questioned the evidence in respect of Anton Court asking the Landlord's agent what condition were they in when let and whether the kitchens and bathrooms been updated. The Landlord's agent advised they were not aware of the condition of either as they were not involved with the lettings having only taken over the responsibility of these flats in December 2022 after they had been let.
25. The Tenant also argued that there are several anti-social problems in the immediate area including drug taking and prostitution. When pressed by the Tribunal the Tenant accepted that the present rent was low and considered the market rent should be £550pcm and that the Landlords proposal is excessive.
26. The Tribunal has carefully considered the parties evidence and opinions and had regard to the Tenants improvements and where appropriate made an adjustment to the rent for the additions made by the Tenant. Taking all factors into consideration, the Tribunal was satisfied and concluded that the likely market rental would be £650 per month.
27. The rent determined by the Tribunal for the purposes of Section 14 was, therefore, £650 per month.

RIGHT OF APPEAL

28. If either party is dissatisfied with this decision, they may apply for permission to appeal to the Upper Tribunal (Lands Chamber) **on a point of law only**. Prior to making such an appeal, an application must be made, in writing, to this Tribunal for permission to appeal. Any such application must be made within 28 days of the issue of this decision (regulation 52 (2) of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rule 2013) stating the grounds upon which it is intended to rely in the appeal.

Nicholas Wint BSc (Hons) FRICS