



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

**Case Reference** : BIR/00CN/MNR/2023/0120

**Property** : 24 Fashoda Road, Selly Park, Birmingham, B29 7QJ

**Applicants** : Paula Rosado and Telmo Mateus

**Respondent** : Mohammad Akmal Khan

**Representative** : Euro Property Management Midlands Limited (EPM)

**Type of Application** : Appeal against a Notice proposing a new rent under an Assured Periodic Tenancy under section 13(4) of the Housing Act 1988

**Tribunal Members** : Mr I.D. Humphries B.Sc.(Est.Man.) FRICS  
Judge David R. Salter

**Date and Venue of Hearing** : 10 October 2023 by videolink

**Date of Decision** : 10 October 2023

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**REASONS FOR DECISION**

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- 1 The rent is determined at £775 (Seven Hundred and Seventy Five Pounds) per calendar month from 1 July 2023.

## REASONS

### Introduction

- 2 The Applicants hold an Assured monthly tenancy that commenced 5 September 2017.
- 3 On 15 May 2023 the Respondent served notice of increase under section 13(2) of the Housing Act 1988 proposing a new rent of £895 per calendar month in place of the previous rent of £630 per calendar month to take effect on 1 July 2023. The rent did not include any Council Tax, water charges or service charges.
- 4 On 30 May 2023 the Applicants applied for the rent to be determined by the First-tier Tribunal (Property Chamber).
- 5 On 10 October 2023 the Tribunal determined the rent at £775 per calendar month with effect from 1 July 2023.
- 6 On 19 October 2023 the Respondent requested reasons for the Tribunal's decision.

### The Law

- 7 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 ...*

- 8 The jurisdiction of the Rent Assessment Committee was transferred to the First-tier Tribunal (Property Chamber) on 1 July 2013.

## **Facts Found**

- 9 The Tribunal issued Directions on 27 June 2023 inviting the parties to make any submissions they wished to make regarding the market rental value of the property with a timetable for action.
- 10 The Tribunal inspected the property on 10 October 2023 in the presence of Telmo Mateus and his daughter, Miss Rafaela Mateus. The Respondent did not attend.
- 11 The property comprised a traditional, two storey, Victorian terraced house in Selly Park, a popular and well established residential area about 3 miles south of Birmingham city centre. It is within walking distance of local facilities and Birmingham University.
- 12 The accommodation comprises an entrance hall leading to a front room with bay window, a cupboard under the stairs, a rear living room, kitchen and bathroom on the ground floor. The first floor has a landing, corridor and three bedrooms, one of which is in the rear wing. The house has a small front garden and a rear garden with yard to the side of the wing, and small lawn separated from the yard by a shared right of way.
- 13 The house is in generally poor condition. The gas fires in the front and back rooms were not working, there were condensation stains on the front living room wall plaster, the kitchen cupboards and appliances were old and in poor condition, there was condensation and mould in the shower cubicle and a section of shower trim was loose. There was old, cracked plaster in the front bedroom ceiling, evidence of water ingress on the centre bedroom walls and an area of undecorated plaster on the back bedroom wall with signs of water ingress above.
- 14 The house was let furnished but the carpets and furnishings were old and in poor condition.
- 15 The Applicants requested a Hearing which was held on 10 October 2023, after the inspection, by video link with Telmo Mateus and the Applicants' representative, Rafaela Mateus, and the Respondent's agent, Mr Sheraz Hussain of EPM.

## **Submissions**

- 16 The Applicants' Submission  
Miss Mateus drew attention to the poor state of repair at the house; the signs of water ingress and high humidity, noise from the boiler, low boiler pressure, the state of the carpets and its general condition. She said the Applicants accepted the rent had to rise but its value was no more than £750-£800 per month in its present condition.
- 17 The Respondent's Submission  
Mr Hussain for the Landlord presented a schedule of nine properties he considered comparable, mainly taken from on-line listings on Zoopla.
- 18 They comprised eight houses and one flat in the same general area, all of which offered three bedroom accommodation. The rents ranged from £900-£1,450 per month.
- 19 During the course of discussion with the Tribunal, Mr Hussain said there was substantial demand in the area due to the convenience of local facilities and proximity to Birmingham University. He agreed the house needed modernisation and said the landlord would improve it if it came to the market. He accepted that all the comparables were 'markedly

better' than the subject property and that in his opinion, a rent of £850 per month would be a fair market rent, rather than the £895 quoted in the landlord's Notice.

### **Decision**

- 20 The parties had helpfully offered their own views on rents, the tenants conceded that an increase was due and the landlord's agent had reduced his expectations. The variance was £750-£800 for the tenants and £850 for the landlord.
- 21 The Tribunal carefully considered all the rental evidence presented but found that all the comparables were described as in better condition. This house needed improvement but the Tribunal accepts that it is in a pleasant and popular part of the city and there would be demand if it were advertised to let, even in its present condition.
- 22 However, the Tribunal finds that condition has a significant effect on value and that in this case, having considered the comparables, the market rent of the subject house is £775 (Seven Hundred and Seventy Five Pounds) per calendar month with effect from the date in the landlord's Notice, 1 July 2023.
- 23 Finally, the Tribunal would like to express its thanks to the parties' representatives for the clear, honest way in which they presented their cases and their assistance to the Tribunal.

I.D. Humphries B.Sc.(Est.Man.) FRICS  
Chairman

### **Appeal**

If either party is dissatisfied with this decision an application may be made to this Tribunal for permission to appeal to the Upper Tribunal, Property Chamber (Residential Property) on a point of law only. Any such application must be received within 28 days after the decision and accompanying reasons have been sent to the parties (Rule 52 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013).