



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

Case Reference : BIR/31UH/MNR/2023/0255

Property : 11 Parkfield Close, Ratby, Leicester, LE6 0XA

Applicant : John Kilcoyne

Respondent : Dawn McLeod

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
M. Alexander B.Sc. MRICS

Date and Venue of Hearing : None. Paper Determination.

Date of Decision : 24 January 2024

REASONS FOR DECISION

Decision

- 1 The rent is determined at £910 (Nine Hundred and Ten Pounds) per month from 1 December 2023.

REASONS

Introduction

- 2 The tenant, Mr John Kilcoyne, holds a monthly assured shorthold tenancy of a house known as 11 Parkfield Close, Ratby, Leicester, LE6 0XA. The tenancy was granted on 1 April 2022 for a term of one year at a rent of £895 per calendar month.
- 3 On 20 September 2023 the landlord served notice of increase under section 13(2) of The Housing Act 1988 proposing a rent of £945 per month to take effect on 1 December 2023. The tenant pays their own Council Tax and water rates.
- 4 On 28 November 2023 the tenant applied for the rent to be determined by the First-tier Tribunal Property Chamber.
- 5 On 1 December 2023 the Tribunal issued Directions inviting the parties to submit their evidence and submissions on the rental value.
- 6 Both parties sent submissions.
- 7 On 24 January 2024 the Tribunal considered the submissions and determined the Market Rent in accordance with section 14 of the Housing Act 1988 at £910 (Nine Hundred and Ten Pounds) per calendar month.
- 8 On 30 January 2024 the Tribunal received a request for Reasons from the tenant.

The Law

- 9 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 ...'*

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

Facts Found

- 11 The Tribunal based its Decision on the facts provided by the parties' submissions.
- 12 The property comprises a two storey unfurnished semi-detached house with living room, two bedrooms, kitchen and bathroom. The house has central heating, double glazing, carpets, curtains and white goods provided by the landlord except the washing machine which was provided by the tenant. Outside there is a garage and private garden.

Submissions

13 The Applicants' Submission

Mr Kilcoyne said the house had been in good condition when let and he had maintained it in the same condition. There had been some mould on the walls and around the windows in some rooms but this had been alleviated by increasing the ventilation and heating, although had not completely eradicated the problem.

He cited details of 12 houses advertised to let on Rightmove, 8 of which had three bedrooms but 4 had 2 bedrooms similar to the subject property. The rents ranged from £795 pcm to £995 pcm across the sample but the 2 bedroom houses were at £795, £800 and two at £900 pcm. He drew particular attention to a house on Tyler Road, Ratby, less than 100m away and probably built by the same developer, advertised at £795 pcm and said to be similar.

Mr Kilcoyne submitted that the evidence suggested the proposed increase was too high but did not specifically put forward a view of its market rental value at the date of notice. Overall, he said the evidence did not suggest the landlord's asking rent of £945 pcm was justified or warranted.

14 The Respondents' Submission

For the landlord, Mr C.Watt of Reddington Homes said the house had been modernised throughout. It was in a quiet and well sought after cul-de-sac and if he had been asked to market it he would have expected it to achieve £950 pcm without problem.

Decision

- 15 The Tribunal took account of the location, accommodation and condition of the property together with the parties' written submissions before reaching its decision.
- 16 The Tribunal considered the comparable evidence provided by Mr Kilcoyne of which the closest in terms of description and accommodation was the house in Tyler Road (number not provided). No details of the terms of tenancy were provided other than that it was 'long term'. The house in Tyler Road was more heavily affected by the gable wall of the neighbouring property than the subject house, and in the Tribunal's view, the location of the subject house in a quiet cul-de-sac made it more attractive.

- 17 Taking an overall view of rental values in the area, the Tribunal determined the rent at £910.00 (Nine Hundred and Ten Pounds) per calendar month under section 14 of The Housing Act 1988 from the effective date in the landlord's Notice, 1 December 2023.

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).