



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

Case Reference : **BIR/00CR/MNR/2023/0133**

Property : **Apartment 28, 154 Bell Barn Road
Birmingham B15 2DA**

Landlord : **Citizens Housing Group Ltd**

Tenant : **Yusuf Adde**

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

Tribunal Members : **Nicholas Wint FRICS
Kay Bentley**

Date of Decision : **04/04/2024**

STATEMENT OF REASONS

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BACKGROUND

1. The Landlord served a notice on the Tenant dated 24 May 2023 under section 13 of the Housing Act 1988 seeking to increase the rent of the Property from £116.83 per week to £148.79 per week with effect from 26 June 2023.
2. Upon receipt the Tenant made an application dated 22 June 2023 referring the notice of the proposed increase to the First-tier Tribunal Property Chamber (Residential Property).
3. The Tribunal issued its Directions dated 28 July 2023 advising the parties it will seek to determine the market rent for the property based on any written submissions the parties wished to submit for consideration and invited the parties to complete the attached Reply Forms.
4. Neither party requested a hearing or an inspection, and the case was therefore listed for a paper only determination on 20 December 2023.
5. The Landlord however served a second notice dated 21 June 2023 on the Tenant seeking to increase the rent to £141.84 per week with effect from 26 June 2023. The Tribunal therefore wrote to the parties on 24 August requesting the Landlord confirm which notice was to be treated as correct. The Landlord responded on 29 August 2023 advising that the first notice had incorrectly applied some service costs to the proposed increase however the proposed net increase was the same as the first notice. The Tribunal has therefore decided to proceed on the basis that the first notice is the correct one and that the Directions previously issued should continue to apply.
6. Only the Landlord submitted a completed Reply Form. The Tenant sent an email to the Tribunal dated 5 October 2023 in response to the comments made by the Landlord. No further written submissions were received from either party.
7. After consideration of the available evidence and the applicable law, the Tribunal determined a rent of £148.79 per week with effect from 20 December 2023 and issued its decision on this basis.
8. Upon receipt of an email dated 28 December 2023 the Tenant requested the Tribunal provide reasons. These written reasons should therefore be read in conjunction with the Decision of the Tribunal dated 20 December 2023.

THE PROPERTY

9. The Property is located on the southwest side of Birmingham city centre off the A4540 Islington Row Middleway.
10. The Property is described by both parties as being a third floor two bedroom flat that includes a living room, kitchen and a bathroom.
11. It appears from the information submitted by the parties that no improvements have been carried out to the Property by either party since it was first let.

THE LAW

12. 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 ...

13. The jurisdiction of the Rent Assessment Committee was transferred to the First-tier Tribunal (Property Chamber) from 1st July 2013.
14. 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.

15. 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

16. In reaching its determination, the Tribunal is required to have regard to any 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.
17. In the first instance, the Tribunal determined what rent the landlord could reasonably be expected to obtain for the Property if it were let in the condition that is considered usual for such an open market letting.
18. On the Tenant's application form, the Tenant advises that the Landlord provides various services including communal lighting, cleaning, security/ CCTV and estate services the cost of which is £39.99 per week. The Tenant also states that the Landlord is responsible for all external repairs and all repairs to the communal areas whereas the Tenant is responsible for all repairs within the flat.
19. On the Landlord's Reply form, the Landlord states that the central heating and double glazing belong to them but the carpets and curtains as well as the white goods are all the Tenants. The Landlord also states that there is off-street permit parking and communal gardens.
20. By way of reply, the Tenant's email dated 5 October 2023 states that there is no communal garden and although there is permit parking the spaces are limited to a '*first come first served basis*'. The Tenant also states that they complained to the Landlord about the proposed rental increase, and they only reduced their proposal when they were advised that the Tenant was going to refer the matter to the Tribunal and after raising it with local councillors.
21. Neither party submitted as evidence any details of what similar or comparable properties from the local area are being let at in the open market. The Tribunal has therefore had to use its own expertise and general knowledge of the market and from research into rental values for similar type properties from the surrounding area and based on its own judgement and investigations came to the conclusion that the market rent for the Property is fairly reflected in the amount of £148.79 per week (inclusive of £39.99 per week for services).
22. The Tribunal has therefore had regard to the location, accommodation and condition of the Property as well as its own findings and had regard to the parties statements in arriving at its valuation of the Property.

23. There were no Tenants' improvements and so no deductions were made in this respect.
24. Taking all these factors into consideration, the Tribunal was satisfied and concluded that the market rental value of the Property is £148.99 per week with effect from 26 June 2023 and determined this amount for the purposes of Section 14 of the Housing Act 1988.

RIGHT OF APPEAL

25. 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