



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

Case Reference : **BIR/37UC/MNR/2023/0241**

Property : **6 Dawber Street Worksop S81 7DS**

Tenants : **Mr I Cave & Mrs S Cave**

Landlord : **Dr S & Mrs Alsop**

Landlords' Agent : **Martin & Co**

Type of Application : **An 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 : **V Ward BSc Hons FRICS – Regional Surveyor
Judge David R Salter**

Date of Decision : **20 May 2024**

DECISION FOLLOWING REVIEW

Introduction

1. By way of a Notice of Rent Increase dated 17 October 2023, the Landlords of the Property sought to increase the rent in respect of the same from £520.00 per calendar month (pcm) to £570.00 pcm with effect from 17 December 2023.
2. By an application received on 8 November 2023, the Tenants referred the Notice of Rent Increase served by the Landlords to the Tribunal. On 10 November 2023, the Tribunal issued Directions for a determination of the case.
3. On 24 January 2024, the Tribunal determined the rent as £570.00 pcm with effect from 17 December 2023.
4. By way of an email dated 6 March 2024, the Tenants appealed the Tribunal's decision.

Law in respect of appeals

5. Applications for permission to appeal are made pursuant to Part 6 of the Tribunal Procedure (First-tier Tribunal) Property (Chamber) Rules 2013 ('the Rules').
6. In respect of appeals from Tribunal decisions, Rule 53(1) of the Rules provides that on receiving an application for permission to appeal, the Tribunal must first consider, taking into account the over-riding objective in Rule 3, whether to review the decision in accordance with Rule 55 (review of a decision).
7. Rule 55(1) provides that the Tribunal may only undertake a review of a decision -
 - (a) pursuant to rule 53 (review on an application for permission to appeal); and
 - (b) if satisfied that a ground of appeal is likely to be successful.
8. The Applicants had requested an oral hearing by email which was unfortunately missed in error. The Tenant's request was made in an email received by the Tribunal on 20 December 2023.
9. By failing to give the Tenants the opportunity of an oral hearing, the Tribunal was satisfied that the requirements of Rule 55(1) had been met and following a review, the decision of 24 January 204 was set aside. Thereafter, the Tribunal decided to consider the matter afresh with different members making up the Tribunal.

Hearing & Inspection

10. An oral hearing was held by video platform on 25 April 2024. Participants were the Tenants, Mr & Mrs Cave, and, on behalf of the Landlords, Dr & Mrs Alsop, Ms Sarah Walker, Ms Alana Millington and Mr Dean Gill, all of Martin & Co.

11. The Tribunal carried out an inspection of the Property on Monday 13 May 2024. Present at the inspection were the Tenants, Mr & Mrs Cave, and on behalf of the Landlord, Ms Sarah Walker (Lettings Manager) of Martin & Co.
12. The Property comprises a semi-detached house with the following accommodation:

Ground floor: Lounge, Kitchen/Diner (with stairs off to first floor);

First Floor: Front Bedroom, Rear Bedroom with access off to Bathroom with suite including panelled bath, wash hand basin and WC;

Outside: External store used as utility room with plumbing for washing machine, Separate WC.

There is forecourt parking for one vehicle and a long rear garden laid principally to lawn. The Property benefits from gas fired central heating and uPVC double glazing.

Tenants' Additions/Improvements: White goods including cooker, fridge and washing machine and some curtains. General improvements to the garden.
13. The Property is located amongst properties of a similar age type and class, approximately one mile to the north of Worksop town centre and its amenities.

Submissions of the Parties

14. The submissions of the parties both at the hearing and in writing were as follows.

The Tenants

15. The Tenants gave background to the tenancy and stated that following Mrs Cave's illness involving a hospital stay, they had fallen into rent arrears and ultimately the Landlords had served a section 21 Notice requiring them to vacate the Property.
16. The Tenants' principal challenge to any rent increase was the condition of the Property which they considered to have always been poor with repairs by the Landlords either being arranged tardily or not at all. The defects identified by the Tenants included the following:
 - a) Dropped floors.
 - b) Cracking to walls internally and externally.

- c) Dampness caused by leaking gutters and holes to path.
- d) Black mould/Condensation
- e) Upstairs window no fire escape
- f) Washing machine needs moving inside (not safe in outhouse)
- g) Kitchen tiles falling off.
- h) Ill fitting doors
- i) No fire doors

In support of the above, the Tenants produced a handwritten note dated 14 December 2023 from a “D. Jenkin” (the name is difficult to decipher) who had denoted themselves as a builder/joiner and also photographs.

The Tenants stated that they had contacted the Environmental Health department of the local authority – Bassetlaw District Council – about the condition of the Property and following this an Environmental Health Officer had visited the Property.

The Tenants did not provide any comparable rental evidence.

The Landlords

- 17. The Landlords’ agents provided a copy of a property management report that set out the repairs had been carried out to the property during the tenancy. This was extensive and covered a range of works from roof repairs to internal electrical fittings.
- 18. Following the Tenants’ referral to the Local Authority, the Landlords received a list of works noted as advisory from Hannah Bigden (Public Protection Team Leader). This was a description of defects found at the Property ranging from a blown windowpane to instructions to the Landlords to check the boiler following the Tenants’ allegations that it only functioned at certain hours of the day.
- 19. In a follow-up email dated 27 March 2024, the Hannah Bigden commented as follows:

As I haven't served any form of enforcement notice it wouldn't be considered a retaliatory eviction.

Plus, I think the notice to quit was served before I visited the property. Also, you are able to evidence that works have taken place.

- 20. The Landlords provided details of four properties let in the local area. These all offered two bedrooms although three were described as terraced houses. Some

had benefitted from refurbishment/new fittings. Rents recorded ranged from £575.00 pcm to £695.00 pcm.

THE LAW

21. 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.
22. 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

23. The Tribunal 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.
24. Initially, the Tribunal's determination considers what rent the Landlord could reasonably be expected to obtain for the Property if it were let today in a condition usual for such lettings. It did this by using its own general knowledge of the market rent levels in north Nottinghamshire and by considering the evidence provided by the Landlords. Taking all factors into account, the Tribunal concluded that the likely market rental would be approximately £600.00 pcm.
25. However, the Property is not in the same condition as properties offered in the general market; the comparables provided by the Landlords all had a degree of modernisation.
26. In addition, the Tribunal needed to consider the impact of the defects noted by the Tenant and comments below on those considered to be more salient for present purposes.
 - a) *Dropped floors.* It was notable in the lounge that there was a degree of movement to the (presumably) suspended timber. This would not materially affect the beneficial occupation of the Property by a Tenant.
 - b) *Cracking to walls internally and externally.* The Property appears to be suffering from a degree of subsidence. This may be due to the fact that the property is situated in a former mining area. Whilst this would be of significant concern to a purchaser of the Property, it would not affect a Tenant's occupation of the Property beyond being unsightly.

- c) *Dampness caused by leaking gutters and holes to path.* This was not identified to any degree during the Tribunal's inspection of the Property. In addition, it was noted that an injected damp proof course had been installed to some of the external walls.
 - d) *Black mould/Condensation.* This was not noted to any degree during the inspection although a photograph provided by the Tenants illustrated this.
 - e) *Upstairs window no fire escape.* This is not supported by any professional opinion or, importantly in the opinion of the Tribunal, by the Local Authority.
 - f) *Washing machine needs moving inside (not safe in outhouse).* Again, this is not supported by any professional opinion or by the Local Authority.
 - g) *Kitchen tiles falling off.* Deflection was noted to some kitchen tiles.
 - h) *Ill-fitting doors.* Several doors did not close properly, and some hinges were loose. The ill-fitting doors may be linked to the subsidence issue.
 - i) *No fire doors.* Again, this is not supported by any professional opinion or by the Local Authority.
27. To adjust the comparables provided by the Landlord for their improved/refurbished condition, the Tribunal makes an adjustment of £20.00 pcm. In terms of the defects brought to its attention, the Tribunal finds it significant that the Local Authority has taken no formal action. However, some items whilst not necessarily requiring repair, would have a negative effect on the rental value and for these, the Tribunal makes a further deduction of £20.00 pcm. The Tribunal then makes a final deduction for the Tenant's improvements to the garden areas and provision of white goods and some curtains of £10.00 per pcm. This results in a rental of £550.00 pcm.
28. The rent determined by the Tribunal for the purposes of Section 14 is, therefore, £550.00 per calendar month with effect from 17 December 2023.

Appeal

29. If either party is dissatisfied with this decision, they may apply for permission to appeal to the Upper Tribunal (Lands Chamber) **on any point of law arising from this Decision**. 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 statement of reasons (Rule 52 (2) of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013) stating the grounds upon which it is intended to rely in the appeal.