



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

Case Reference : BIR/00CN/MNR/2024/0047

Property : Flat 2, 102 Sandford Road, Moseley, Birmingham, B13 9BT

Applicant : Liban Omar

Respondent : Midland Heart Housing Association

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 : I.D. Humphries B.Sc.(Est.Man.) FRICS
D. Satchwell FRICS
L. Packer

Date and Venue of Hearing : N/A. Paper determination.

Date of Decision : 20 May 2024

REASONS FOR DECISION

- 1 The rent is determined at £145.00 (One Hundred and Forty Five Pounds) per week with effect from 1 April 2024.

REASONS

Introduction

- 2 The tenant, Liban Omar, has held a tenancy of the subject property since 23 April 2007 and remains a statutory periodic, weekly assured shorthold tenant.
- 3 On 24 February 2024 the landlord served notice of increase under section 13(2) of The Housing Act 1988 proposing a rent increase from £134.10 per week to £145.36 per week to include a fixed service charge of £27.26 per week from 1 April 2024. The rent did not include Council Tax or water charges.
- 4 The tenant applied to the First-tier Tribunal (Property Chamber) to determine the rent.
- 5 The Tribunal issued Directions on 13 March 2024 and subsequently determined the rent on 20 May 2024 under section 14 of The Housing Act 1988, at £145.00 per week.
- 6 On 4 June 2024 the Tribunal received a request for Reasons from Liban Sheikh Hassan who was assumed to be the tenant or a party acting on behalf of the tenant, as the Application indicated the tenant to be Liban Omar. The Reasons for the Tribunal's Decision are set out below.

The Law

- 7 Section 14 of The Housing Act 1988 ('the Act') 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 did not inspect the property and reached its Decision based on the tenant's submission and views of Sandford Road on Google Streetview.
- 10 The property is a first floor two bedroom flat in a converted house, located in a residential road of similar properties. The building dates from before 1920. It is of solid brick construction with a pitched roof. The flat has double glazed windows and central heating.
- 11 The accommodation comprises a hall, living room, kitchen, two bedrooms and bathroom.

Submissions

- 12 The Applicant's Submission
Mr Omar submitted various papers evidencing a history of problems relating to the repair of the property going back to 2016. The documents included photographs and copies of correspondence from the landlord detailing rent arrears and other estate management issues. The papers also included a copy bill from Severn Trent Water detailing overdue water rates of £3,081.41 on 16 October 2023.
- 13 Mr Omar advised that he had fitted tiling and a laminate floor covering.
- 14 The Respondent's Submission
No submissions were received from the landlord, Midland Heart.

Decision

- 15 Neither party requested a Hearing and the Decision was reached on the submitted papers.
- 16 The tenant had produced papers showing there had been maintenance issues over several years but as the local authority had not issued an Improvement Notice, Closure Notice or Management Order, the accommodation was assumed to be satisfactory and habitable although the Tribunal noted the tenant's comments.
- 17 The Tribunal had been provided with a schedule detailing the service charge items which included communal cleaning, electricity for communal areas, door entry systems, grounds maintenance, tree maintenance, emergency lighting, a tv aerial, fire testing, a Ranger and management charge which came to £27.26 per week. However, as a fixed charge it is part of the overall weekly rent and any comparison with market rents would assume these services to be provided by other landlords without separate charge. The Tribunal therefore had to determine the weekly rent of the flat assuming these services were provided within the rent.
- 18 The Tribunal did not find the tenant's tiling or laminate floor to have had a material effect on the rental value.
- 19 Neither party had provided any evidence of rents of other flats in the area and the Tribunal reached its decision based on its professional expertise and general knowledge. Bearing in mind the location, condition of the property and general levels of market rents, the Tribunal considered the rent based on the definition in section 14 of the Housing Act 1988 to have been £145.00 (One Hundred and Forty Five Pounds) per week including a service charge element of £27.26 per week, at the effective date of the Notice, 1 April 2024.

Appeal

In accordance with section 11 of the Tribunals, Courts and Enforcement Act 2007 and rule 21 of the Tribunal Procedure (Upper Tribunal) (Lands Chamber) Rules 2010, the Tenant / respondent may make further application for permission to appeal to the Upper Tribunal (Lands Chamber) on a point of law only. Such application must be made in writing and received by the Upper Tribunal (Lands Chamber) no later than 28 days after the date on which the First-tier Tribunal sent notice of this refusal to the party applying for permission to appeal. Where possible, you should send your further application for permission to appeal by email to Lands@justice.gov.uk, as this will enable the Upper Tribunal (Lands Chamber) to deal with it more efficiently.

Alternatively, the Upper Tribunal (Lands Chamber) may be contacted at: 5th Floor, Rolls Building, 7 Rolls Buildings, Fetter Lane, London EC4A 1NL (tel: 020 7612 9710).