



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

Case Reference : BIR/41UB/MNR/2023/0261

Property : 35 Matlock Drive, Cannock, Staffs., WS11 6EN

Applicants : Paige and Gavin Llewellyn

Respondent : Rajinder Balley

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
W. Jones FRICS

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

Date of Decision : 26 April 2024

REASONS FOR DECISION

- 1 The rent is determined at £950.00 (Nine Hundred and Fifty Pounds) per calendar month with effect from 12 January 2024.

REASONS

Introduction

- 2 The tenants, Paige and Gavin Llewellyn, held a twelve month assured shorthold tenancy from 12 September 2015 which has continued since and they remain in occupation as statutory periodic assured shorthold tenants.
- 3 On 11 July 2023 the landlords served notice of increase under section 13(2) of The Housing Act 1988 proposing a rent increase from £650.00 per month to £1,150.00 per month from 30 August 2023. The rent did not include Council Tax, water charges or service charges.
- 4 On 7 August 2023 the tenants applied to the First-tier Tribunal (Property Chamber) to determine the rent. However, on reviewing the papers, the landlord's Notice was found to be invalid as it incorrectly stated the date of proposed rent increase.
- 5 The landlord served a new Notice of Increase on 30 November 2023, adopting the same figures, to increase the rent from £650.00 to £1,150 per month with effect from 12 January 2024.
- 6 On 18 December 2023 the tenants made a fresh application to the Tribunal.
- 7 The Tribunal issued Directions on 29 December 2023 and after receipt of submissions the rent was determined at £950.00 per month by paper decision on 26 April 2024, based on information provided to the Tribunal by the parties at the time. The Decision was sent to the parties on 30 April 2024.
- 8 On 13 May 2024 the Tribunal received a request from the tenants to re-consider the Decision, but under the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, it has to issue Reasons before it can decide whether or not to re-consider a Decision. These Reasons are set out below.

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) on 1st July 2013.

Facts Found

- 11 The Tribunal did not inspect the property and reached its Decision based on the parties' submissions and views of the rear of the house from Matlock Drive on Google Streetview.
- 12 The property is a traditional 1960s semi-detached house of brick and tile construction. The ground floor has a living room (the landlord's information advises there are two reception rooms), a kitchen, utility, downstairs WC, bathroom and three bedrooms on the first floor. The former garage at the back has been converted to a bedroom but the tenants claim the standard of conversion is low, with uninsulated walls and rising damp, and its status is in issue. Whether it is classified as a 'bedroom' or converted garage, it is common ground that it was used as a bedroom at the date of the parties' submissions. There is no longer a garage at the property, any cars would either have to be parked on the road or if small, in the back garden, as there are gates from the garden to the road and a small area to park within the site.
- 13 The house has gas-fired central heating and double glazing.
- 14 Neither party requested a Hearing.

Submissions

- 15 The Applicants' Submission
The Applicants sent an email submission on 8 February 2024 listing numerous issues and complaints about the property related to its maintenance and conversion. They included but were not limited to:
- a) previous flooding of the ground floor from an over-flowing foul drain;
 - b) electrical faults (no earth and poorly secured surface trunking);
 - c) problems of rising damp ingress;
 - d) damp ingress through the kitchen ceiling;
 - e) inadequate space heating;
 - f) inadequate insulation in the former garage walls which the landlord refers to as 'bedroom 4';
 - g) poor quality drive paving;
 - h) a loose tv aerial;
 - i) landlord non-compliance with works required by the Environmental Health Officer.

Overall, the tenants said the proposed increase to £1,150 per month was 'not worth it'. They had offered an increase to £850 per month in June 2023 which the landlord declined.

16 The Respondent's Submission

The landlord said the property had four bedrooms and should be valued as such. He provided summary details of six properties with photographs for comparison at the following addresses to support his case. All the information was from Rightmove listed within three miles of the subject property.

<i>Address</i>	<i>Asking rent per month £</i>
Vivaldi Drive, Cannock	£1,200
King Cup Drive, Huntingdon	£1,295
Lucas Rise, Cannock,	£1,400
Winding House Drive, Cannock	£1,500
Dartmouth Rd., Cannock	£1,500
Lodge Lane, Cannock	£1,950

Decision

- 17 The property is being occupied as a four bedroom house but the standard of the fourth bedroom is questionable and the Tribunal is not convinced the market would consider it a four bedroom property if advertised in the open market, vacant and to let. Even if advertised with four bedrooms, the Tribunal finds it likely that a new tenant would take the standard of accommodation and lack of garage into account when agreeing a rent.
- 18 There have clearly been maintenance issues evidenced by the involvement of the local authority's Environmental Health Officer ('EHO'). Extracts of the EHO Report are in evidence listing deficiencies in respect of fire, damp and mould, fenestration, drainage and sanitation, food safety, electrical and hot surface hazards. It was not clear whether all the required works had been attended to by the date of the Tribunal's Decision on the rent, but as far as we were aware there were no local authority management orders, improvement notices or closure orders in place and it was assumed the property was habitable and assessed accordingly.
- 19 The landlord cited six houses for comparison but we did not find all the information provided of great assistance. They all appeared to be modern, post 1980 houses, rather than traditional 1960s semi-detached.
- 20 In assessing the rent, the Tribunal took account of the parties' submissions and also applied its own general knowledge and expertise in respect of current market rents, without relying on any particular evidence not brought to the parties' attention. The Tribunal also had to adhere to the requirements in s.14 of the Housing Act 1988 referred to in paragraph 9 above, which basically require assessment of a market rent subject to the conditions of the property and tenancy at the time, disregarding any effect on rent of occupation by a sitting tenant.
- 21 Bearing in mind the location, condition of the property and general levels of asking rents in the area, the Tribunal considered the market rent based on the definition in section 14 of the Housing Act 1988 to have been £950.00 (Nine Hundred and Fifty Pounds) per calendar month at the effective date of the Notice, 12 January 2024.

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

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).