



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

Case Reference	:	CAM/22UK/MNR/2024/0069
Property	:	39 Dunkirk Road Burnham on Crouch Essex CM0 8LG
Applicants	:	Michelle Carlo (Tenants)
Representative	:	None
Respondent	:	Moat Housing Association (Landlord)
Representative	:	None
Type of Application	:	Section 13(4) Housing Act 1988
Tribunal Members	:	Mr N Martindale FRICS
Date and venue of Hearing	:	20 May 2024 (on Papers) Cambridge County Court, 197 East Road, Cambridge CB1 1BA
Date of Decision	:	20 May 2024

REASONS FOR DECISION

Background

- 1 The First Tier Tribunal received an application dated 18 March 2024 from the tenants of the Property, regarding a notice of increase of rent, served by the landlord, under S.13 of the Housing Act 1988 (the Act).

- 2 The notice, dated 26 February 2024, proposed a new rent of £191.74 per week with effect from and including 1 April 2024. The passing rent was stated in the notice, as £178.03 per week from an earlier unspecified date.
- 3 The tenancy is an assured shorthold periodic weekly tenancy. A copy of the tenancy and of the landlord's Notice was provided.

Inspection

- 4 The Tribunal did not inspect the Property internally but viewed the exterior from a Google Street View image of the Property as seen from the public road (taken @ May 2023). The Property is a two bedroom semi-detached bungalow. Measurements provided give a gross internal floor area of some 42m²: It is a small. The bungalow appears to date from the 1960's. It forms part of a larger established residential estate with a variety of sizes and layouts of an otherwise similar period. It is located across the suburban road to Burnham Primary School.
- 5 The external face of the walls is brick and a simple double pitched main roof over the house finished in a concrete single lap roof tile covering. There are private front and enclosed rear gardens. The front garden in part is used to park a vehicle but there is no hardstanding. There are on road parking restrictions on account of the school.
- 6 The Property accommodation is on one level. Ground level: 2 bedrooms, bathroom wc; living room, kitchen. As a condition of the initial grant of the tenancy in June 2012, the tenant replaced all internal doors and arranged and funded re-plastering of many wall and ceiling surfaces, decorated and other minor works. Windows are new double glazed units throughout and there is full gas fired central heating; both provided by the landlord.
- 7 The Property was said to be let without carpets, curtains, nor white goods and there was no furniture. The tenant provides all of these.

Representations

- 8 Directions, dated 27 March 2024, for the progression of the case, were issued by Legal Officer Laura Lawless. Neither party requested a hearing. The tenant filed a standard Reply Form together with details supplied in their initial application form. They also made a longer statement, helpfully provided a measured floor plan, included many photographs showing the interior.
- 9 The tenants provided copies of extracts of other properties listed on two websites apparently around April 2024, the valuation date: "Glassbob.com" and "Homeswapper.co.uk". These sites list residential properties currently let to residential tenants, often by social landlords. The sites seek to match existing tenants of social housing with other tenants of other social housing, with a view to arranging a mutual

assignment or other transfer of tenancies between willing tenants seeking to relocate.

- 10 The tenant referred in particular to any entry for an almost identical small two bedroom bungalow also let by Moat Housing Association, in the same road as the Property. It showed a passing rent of £127 pw. The entry details supplied did not however include reference to the date at which that rent had been set for that property, or whether it was subject to 'social' or 'affordable' rent setting restrictions, on the landlord.
- 11 The Tribunal is grateful for and has carefully considered such written representations as it received, from parties.

Law

- 12 In accordance with the terms of S.14 of the Act the Tribunal is required to determine the rent at which it considers the property might reasonably be expected to let in the open market, by a willing landlord, under an assured tenancy, on the same terms as the actual tenancy; ignoring any increase in value attributable to tenant's improvements and any decrease in value due to the tenant's failure to comply with any terms of the tenancy. Thus the Property falls to be valued as it stands; but assuming that it is in a reasonable internal decorative condition.

Decision

- 13 While the Tribunal acknowledges the information provided by the tenant on existing tenancies, these appeared to be either social or affordable rents and attractive therefore to others who already had such rent limitations on their own property, to swap tenancies by assignment. The rents themselves are not market rents and do not form the basis for setting a new rent under S.13. It was unfortunate that the landlord chose not to participate..l
- 14 Based on the Tribunal's own general knowledge of market rent levels in Burnham on Crouch and surroundings, it determines that the subject property would let on normal Assured Shorthold Tenancy (AST) terms, for £190 per week, fully fitted and in good order at the valuation date April 2024.
- 15 However the property lacked landlord's carpets, curtains and white goods. On the other hand the added value of the tenants initial works to the Property were taken into account, as they were carried out as a condition of grant of the lease. The Tribunal therefore makes a deduction of £10 per week to reflect these deficiencies, reducing the the new market rent slightly to £180 per week. This figure also includes the small fixed service charge by the landlord, of £1.22 pw.
- 16 The new rent of £180 per week is payable from and including the date set out in the Landlord's Notice, 1 April 2024. The landlord may charge

any rent up to and including £180 per week but, not a rent in excess of this figure.

Chairman N Martindale FRICS

Dated 20 May 2024

Rights of appeal

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

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 decision to the person making the application (regulation 52 (2) of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rule 2013).

If the application is not made within the 28-day time limit, such application must include a request for an extension of time and the reason for not complying with the 28 day time limit; the tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed, despite not being within the time limit.

The application for permission to appeal must identify the decision of the tribunal to which it relates (i.e., give the date, the property, and the case number), state the grounds of appeal and state the result the party making the application is seeking.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).