



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

Case Reference : BIR/00CT/MNR/2024/0037

Property : 6 Hawthorn Close Birmingham B9 4JF

Landlord : Property People

Tenant : Nimo Saalah Qaasim

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

Tribunal Members : Nicholas Wint FRICS
Mark Alexander MRICS

Date of Decision : 23 July 2024

STATEMENT OF REASONS

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BACKGROUND

1. The Landlord served a notice on the Tenant dated 22 February 2024 under section 13 of the Housing Act 1988 seeking to increase the rent of the Property from £650 to £900 per month with effect from 26 March 2024.
2. Upon receipt the Tenant made an application dated 26 February 2023 referring the notice of the proposed increase to the First-tier Tribunal Property Chamber (Residential Property).
3. The Tribunal issued its Directions dated 1 March 2024 and listed the case for a hearing on 3 May 2024 without an inspection.
4. Reply Forms were sent to the Tenant and Landlord to complete giving details of the Property and inviting the parties to submit any other further comments and/or documents they wish the Tribunal to take into consideration. Both the Tenant and Landlord returned their completed Form to the Tribunal. In addition, the Tenant completed a Hardship Reply Form asking the Tribunal to use its discretion to defer the starting date for any rental increase.
5. Neither party requested the Tribunal inspect the Property and advised were content for the matter to proceed by way of a video hearing only. At the hearing the Landlord was represented by Mr Tahir from Property People. The Tenant represented themselves.
6. The Tenant submitted various photographs of the alleged disrepair but 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 £900 per month with effect from 3 May 2024 and issued its decision on this basis.
8. Upon receipt of an email dated 21 May 2024 the Tenant requested the Tribunal provide reasons. These written reasons should therefore be read in conjunction with the Decision of the Tribunal dated 3 May 2024.

THE PROPERTY

9. The Property is located in the Small Heath area of Birmingham.
10. It is a relatively modern three-bedroom terraced house that includes a living room, kitchen, toilet, bathroom, rear garden and off-street parking.
11. There is central heating, and the windows are double glazed.

12. No improvements have been carried out to the Property by either the Landlord or Tenant since it was first let.

EVIDENCE

13. The Tenant's Reply form states that the Property was let unfurnished but that they provided the carpets and curtains and the white goods (cooker, washing machine, fridge).
14. The Tenant also stated that the Property was suffering from damp and mould in some rooms and that there are a number of items of disrepair including a damaged radiator, broken window, damaged kitchen units and ceilings, damaged and loose flooring, loose skirting boards, loose/ broken electrical sockets, no handles to any doors, and loose taps and broken toilet flush as well as a damaged garden fence.
15. The Landlord's Reply form concurred with the accommodation in the Tenant's Reply form and also that the Property has central heating and double glazing. No reference to any disrepair was made but the Landlord did include rental details of similar properties in the area ranging from £1000 to £1600 per month.
16. At the Hearing the Tenant advised they considered that the market rent should be between £650 to £750 per month. The Tenant then referred the Tribunal to the photographs submitted in respect of the disrepair.
17. Mr Tahir, for the Landlord, advised that the tenant had been in occupation over 15 years and had always tried to address the various issues when raised by the Tenant but had found that several matters were as a result of the Tenant's use of the Property including the Tenants failure to properly heat and ventilate the Property. Mr Tahir also advised the boiler had been replaced about 4 years ago and the ceiling damage had arisen because of excess water in the bath spilling over.
18. As regard evidence in support of the Landlord's proposal, Mr Tahir advised he had carried out research into rental values of similar properties in the area and found these were around £1200 per month albeit with a driveway. Therefore the Landlord's proposal was quite fair at £900 per month.
19. The Tribunal asked the Tenant if they had carried out any similar investigations into rental values for comparable properties in the area and they advised they had not.
20. In support of the Tenant's request for the Tribunal to consider a Hardship application, the Tenant advised that he simply could not afford such a large increase in rent which would not be covered by housing benefit.

THE LAW

21. 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 ...

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

23. 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.

24. 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

25. In reaching its determination, 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.

26. In the first instance, the Tribunal determined what rent the landlord could reasonably be expected to obtain for the Property if it were let today in the condition that is considered usual for such an open market letting.
27. The Tribunal considered all the evidence submitted but preferred the rental evidence submitted by Landlord. The Tribunal also used its own general knowledge of market rental levels in the area and had regard to its own research into rental values for similar types of property from the surrounding areas and found similar type properties that supported the Landlord's rental proposal. The Tribunal also had regard to the character of the Property as well as the location, accommodation and condition of the Property in arriving at its valuation of the Property after making some deductions for the disrepairs referred to by the Tenant.
28. There were no Tenants' improvements and so no deductions were made in this respect.
29. Taking all these factors into consideration, the Tribunal was satisfied and concluded that the likely market rental of the Property would be £900 per month.
30. The rent determined by the Tribunal for the purposes of Section 14 was, therefore, £900 per month.
31. The Tribunal then considered the Tenant's application for hardship. The Tribunal was persuaded by the Tenant that as this was a significant rental increase it would cause some difficulties if the increase were to be backdated to the date in the Notice. The Tribunal was of the view that this would therefore cause undue hardship on the Tenant and consequently determined that the rental increase shall take effect from the date of the decision, that being 3 May 2024.

RIGHT OF APPEAL

32. 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