



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

Case Reference : **MAN/36UF/MNR/2024/0053**

Property : **Foundry Farm, Wreton
Pickering YO18 8PF**

Applicant : **Miss H A Gough**

Respondent : **Mrs N Blyth**
Representative : **Bulmers Lettings, Malton**

Type of Application : **Appeal under Housing Act 1988 (the “Act”)
Section 13(4)**

Tribunal Members : **Mr J Platt FRICS
Mr J Fraser FRICS**

Date of Decision : **2 July 2024**

DECISION

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Determination

1. The Market Rent for the Property is £900.00 per month.

Background

2. By Application dated 26 February 2024 the Applicant referred to the Tribunal a notice of increase of rent (the “Notice”) served by the Respondent under section 13 of the Housing Act 1988 (the Act).
3. The Notice dated 13 February 2024 proposed an increased rent of £900.00 per month with effect from 1 April 2024, instead of the existing rent of £750.00 per month.
4. The Applicant provided a copy of the tenancy agreement which is an Assured Shorthold Tenancy which began 1 April 2019. The tenancy is for an initial term of 6 months and thereafter rolling on a monthly basis.

The Law

5. The Act provides in section 13(2) as amended by the Regulatory Reform (Assured Periodic Tenancies) (Rent Increases) Order 2003 that the date in paragraph 4 of the Landlord’s notice (the date the new rent becomes payable) must comply with three requirements.
 - a. The first requirement is that a minimum period of notice must be given before the proposed new rent can take effect. That period in this case is one month.
 - b. The second requirement is that the starting date (relevant for the facts of this case) must not be less than 52 weeks from the first rent period of the tenancy. (There are exceptions to this, but they do not apply in this case.)
 - c. The third requirement is that the proposed new rent must start at the beginning of a period of the tenancy (see paragraph number 17 of the Guidance Notes forming part of the prescribed form of the Landlord’s Notice).
6. Section 14 of the Act requires the Tribunal to determine the rent at which it considers the subject property might reasonably be expected to be let on the open market by a willing Landlord under an Assured Tenancy on similar terms. In so doing the Tribunal is required by Section 14 (1) to ignore the effect on the rental value of the property of any relevant tenants’ improvements as defined in Section 14 (2) of the Act.

Evidence

7. Both parties submitted written evidence.
8. The Applicant presented written evidence on the condition of the property from the start of the tenancy. That evidence included details of Housing Health & Safety Rating System (“HHSRS”) assessments produced by North Yorkshire Council (“the Council”) and a report on condition (accompanied by a statement of truth) produced by Mr Karl Tumman MRICS Chartered Building Surveyor, dated 21 February 2024.
9. The Council issued a hazard awareness notice on 23 May 2023 identifying a number of category 2 hazards requiring remediation by the Landlord. The Respondent’s evidence included a letter from the Council dated 30 May 2024 confirming that ‘the major issues have been remedied or mitigated’ but also identifying that ongoing monitoring of penetrating dampness was taking place.
10. The Respondent’s agent submitted comparable evidence of lettings within the area and the above-mentioned letter from the Council.

Inspection

11. The Tribunal inspected the property on 19 June 2024 in the presence of the Applicant and Ms Sally Bulmer, the Respondent’s agent. At the request of the Applicant, an oral hearing had been listed for later that day at Scarborough Court. Both parties agreed at the inspection, however, that they had provided all their evidence in written form to the Tribunal. As both parties were present and provided with an opportunity to make any additional representations and representations on the other party’s evidence, both parties concurred that an oral hearing in Scarborough was unnecessary, and they were content for the Tribunal to make its determination on the written evidence (and its own findings from the inspection) alone. The oral hearing was, therefore, vacated.
12. The property is a Grade II listed former farmhouse complete with attached barn and associated outbuildings, set in mature private gardens. The property comprises of 2 sitting rooms, dining kitchen, 3 bedrooms, bathroom with separate wc and 2 attic rooms suitable for storage.
13. The Applicant’s evidence was briefly that the property had not been maintained to a habitable standard during the period of her tenancy and that legislative requirements had not been fulfilled. She had concurred that a rent increase was appropriate once all works had been completed to bring the property up to habitable standard and had proposed a rent (after such works) of £850 per month.

14. Although some works have been undertaken in accordance with the Council's notice, the Applicant remains concerned about the amount of damp throughout the property and the ineffective heating system. Both parties agree that the boiler has recently been serviced but the Applicant is adamant that the radiators remain ineffective. These concerns are partly reflected in the Council's letter of 30 May 2024 which refers to ongoing monitoring of penetrating damp.
15. The Tribunal explained the nature of its jurisdiction in respect of this application i.e. to determine the rent at which it considers the subject property might reasonably be expected to be let on the open market by a willing Landlord in its current condition (but excluding the effect of tenant improvements). The subject application does not provide the Tribunal with any role relating to housing conditions or enforcement of regulatory requirements, other than considering the impact of current condition on the market rental value of the property. Damp and mould growth was evident throughout the property but it was not necessary for the Tribunal to undertake any investigations of its own into the cause of those problems e.g. the extent of penetrating damp and / or condensation, poor ventilation etc.

The Tribunal's Decision

16. The Tribunal first had to determine that it had jurisdiction to hear the Application. The Tribunal had to determine that the landlord's notice under Section 13 (2) satisfied the requirements of that section and was validly served.
17. There was no issue as to whether it was more than 52 weeks since the last rent increase; that minimum notice of increase had been given; that the date for commencement of the new rent proposed by the landlord was the start of a new period of the tenancy; and in addition, that the tenant had received the Guidance Notes forming part of the Notice. The Tribunal determined that the landlord's Notice satisfied the requirements of Section 13 (2) and there was no argument as to the validity of its service.
18. The Tribunal had regard to the market evidence submitted by the Respondent, the submissions of the Applicant and its findings from the inspection. It also used its own knowledge and expertise of market rent levels in the Ryedale area.
19. The property is considerably larger than most comparable lettings in the immediate vicinity over the last year or so and benefits from additional barns and private gardens. It was evident that the property requires further capital expenditure to remediate damp (be that penetrating damp, condensation, inadequate ventilation or a combination of all three) and

(taking the Applicant's evidence at face value) to the central heating radiators.

20. The Tribunal is of the opinion that a premium above the current market rent level would be achievable following additional capital expenditure to fully remediate and refurbish the property. Having regard to the extent and nature of works required, however, the Tribunal considers that, in its current condition, the property might reasonably be expected to be let on the open market by a willing Landlord at a rent of £900 per month.
21. No relevant evidence was before the Tribunal in relation to Section 14 (7) whether undue hardship would be caused to the Applicant by the new rent being payable from 1 April 2024, the date specified in the Respondent's Notice. In the circumstances the Tribunal determines that the payment of rent at the rate of £900 per month should take effect from 1 April 2024.

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