



FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference : CAM/22UH/MNR/2023/0176

Property : 16 York Crescent
Loughton
Essex IG10 1RW

Applicant : Cristian Benitez, Egle Miskinyte
(Tenants)

Representative : None

Respondent : Mr. S. Rose (Landlord)

Representative : B Bailey Property Management Ltd

Type of Application : Section 13(4) Housing Act 1988

Tribunal Members : Mr N Martindale FRICS

Date and venue of Hearing : 2 February 2024
Cambridge County Court, 197 East
Road, Cambridge CB1 1BA

Date of Decision : 2 February 2024

REASONS FOR DECISION

Background

- 1 The First Tier Tribunal received an application dated 3 December 2023 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 24 November 2023, proposed a new rent of £1600 per calendar month with effect from and including 24 January 2024. The passing rent was stated in the notice, as £1250 pcm from 22

November 2022. Initial rent on grant on 25 January 2020 was £1150 pcm.

- 3 The tenancy is an assured shorthold periodic monthly tenancy. A copy of the tenancy and of the landlord's Notice were provided.

Inspection

- 4 The Tribunal did not inspect the Property internally but viewed the exterior from a Google Street View image of the Property from the public road (taken @ March 2022). The Property is a two bedroom flat at first floor forming part of a small three storey purpose built block of flats dating from the 1930's in a small housing estate of the period of similar blocks each of 6 flats. The cul-de-sac is located near to the public open space of Epping Forest to the North.
- 5 The external face of the walls of the block are brick to the ground floor, render finish to floors one and two. A flat roof above. All dwellings in the block are wholly below the roof space. There is a ground floor porch entrance to a communal hallway, stairwell, and landings, no lift. Vehicle parking is on road. There are no apparent parking restrictions., in this public road. There appears to be small communal gardens shared by all flats to the block.
- 6 The tenant supplied printed monochrome photographs of what appeared to be of some mold growth to some internal walls of the Property. It was later understood that these were external walls to the two bedrooms. They were not particularly clear. The Tribunal assumed that they were intended to show areas of mold growth inside the flat arising from condensation. The tenant was concerned about the limited tiling to bathroom walls and had at their own expense extended the tiled wall areas here.
- 7 The landlord provided a copy of the handover report on first letting. It showed a newly decorated and arranged flat. There was no mold growth.
- 8 The Property is a 2 bedroom (1 double, 1 single), one bathroom/ Wc, living room and kitchen. The rooms are accessed from a central hallway. Apart from the shared hallway, stairs and landings and gardens there are no other areas included. Windows are plastic framed double glazed. Water and space heating is apparently fed from a self contained gas fired system within the flat. Floors are carpeted or otherwise covered.
- 9 The building of which the Property forms part, appears to be in good condition externally as are the neighbouring blocks.
- 10 The Property was let with white goods with floor coverings from the landlord. Bathroom and kitchen were of a modern standard.

- 11 Directions, dated 4 December 2023, for the progression of the case, were issued by Legal Officer Laura Lawless. A hearing was requested.

Tenant's Representations

- 12 The tenant made representations at the hearing in addition to those in the application form and a completed Reply Form with reference to the photographs (viewed by the Tribunal after the hearing when supplied). There was evidently a dispute over the condition of the walls to the external face of the two bedrooms, mold growth being the principal concern. The Tribunal noted that the construction of the block appeared to be in solid 9" brick, without an air cavity.
- 13 The tenants confirmed that as a result of their complaints about mold growth to the two bedrooms the landlord had recently installed some rigid wall insulation overtopped with plasterboard of some 35mm thickness to the two external walls of each bedroom. The Tribunal took this to be an attempt to reduce cold bridging to these two external walls in each bedroom. As a result it appeared from the tenant's description that damp air was now condensing on the un-insulated window reveals to each bedroom, this now being the coolest parts of the bedrooms.
- 14 The tenants reported passing rents of some £1200 pcm and 1250 pcm being paid by tenants of nearby flats in the same and neighbouring blocks. The flats are essentially identical in layout. Their internal condition was unclear. When these rents had been set was also unclear. The tenants felt that the passing rent of £1250 pcm should not be changed at this review.

Landlords Representations

- 15 The landlord's agent also made representations at the hearing in addition to those in the completed Reply Form and their own separate statements principally in two emails to the Tribunal office. The agent confirmed the specification of the insulation works completed to the Property. Contents of the Reply Forms were not disputed.
- 16 The landlord provided summary details of similar 2 bedroom properties on offer locally from at rents ranging from £1650 to £1700 to £1750 pcm. The Tribunal noted that one contained a second bathroom and both appeared to date from post 2000 construction methods, with cavity walls as standard, superior thermal insulation, and in some cases, off street private parking, for example.
- 17 The Tribunal carefully considered such written representations, photographs and oral representations at the telephone hearing of approximately one hour; as it received, from both parties. The Tribunal is grateful to both parties for their assistance at the hearing.

Law

- 18 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

- 19 Based on the Tribunal's own general knowledge of market rent levels in Loughton, it determines that the subject property would let on normal Assured Shorthold Tenancy (AST) terms, for £1500 pcm, fully fitted and in good order.
- 20 There were no significant tenant's improvements or additions. There were minor landlord failings in the condition of the Property. Although substantially reduced by additional wall insulation, the potential for mold from poor ventilation, coupled with older construction methods with solid brick walls remained.
- 21 The new rent of £1500 pcm is payable from and including the date set out in the Landlord's Notice, 24 January 2024. The landlord may charge any rent up to and including £1500 pcm but, not a rent in excess of this figure.

Chairman N Martindale FRICS

Dated 2 February 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).