



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

Case Reference : **CAM/22UG/MNR/2023/0149
P:PAPERREMOTE**

Property : **40 Charles Pell Road Colchester CO4
3XT**

Applicant : **Miss Iyobosa omoregie**

Respondent : **Mr Paul May**

Representative : **Sudburys (managing agent)**

Type of Application : **Determination of the market rent
under Section 14 Housing Act 1988**

Tribunal : **Mrs E Flint FRICS**

**Date and venue of
Determination** : **19 December 2023
remote on the papers**

DECISION

The market rent is £ per month with effect from 2023.

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Background

1. On 10 October the tenant referred to the Tribunal a notice of increase of rent served by the landlord under section 13 of the Housing Act 1988.
2. The landlord's notice, which was dated 20 September 2023, proposed a rent of £1400 per month with effect from 29 October 2023 in place of the existing rent of £900 per month.
3. The tenant occupies under a periodic tenancy which commenced on the expiry of a tenancy for 12 months from 28 August 2020 at an initial rent of £500 per month.
4. Directions were issued by the tribunal on 17 October 2023.
5. Prior to the hearing both the landlord and the tenant sent their submissions to the tribunal and copied them to the other party.

The Inspection

6. I inspected the property on the morning of 11 December. It is an end terrace house on an estate of similar properties on the outskirts of Colchester. Parking was available in a communal car park to the rear of the property, spaces were not marked and parking was available on a first come first served basis.
7. Externally the property appeared to be in fair condition. The front door had recently been replaced. A brick shed in the rear garden had a leaking roof and the boundary wall between the house and the shed had clearly moved away from the house. There was a small rear garden backing onto the communal car park. There is no permit parking scheme on this estate.
8. Internally the accommodation comprised on the ground floor a kitchen at the front and living room to the rear, a lobby off the living room gave access to a wc and the door to the garden. There was evidence of water penetration from above on the kitchen ceiling which had a slight bow near the front of the building. The kitchen was fitted with a range of units which were worn and dated. There were several small areas where the laminate flooring was missing. There were a number of exposed piped by the water heater. In the hallway there was extensive plaster cracking particularly near the front door. Immediately above the bottom step of the staircase the ceiling was mouldy and the plaster perished. This area was immediately below the waste end of the bath above.
9. On the first floor there were three bedrooms: one double and two singles and a bathroom housing a bath, wash hand basin, shower cubicle and wc. There were extensive areas of mould in the bathroom

and on the front wall in the main bedroom which is adjacent to the bathroom.

The Evidence

10. In written submissions the tenant provided a brief description of the property and stated that there were a number of problems with the property. The front door would not close properly, there was mould and lots of cracks. A plumber had been sent to deal with the leaking shower on 20 September 2023 however it was still leaking.
11. The tenant stated that she could not afford an increase to £1400 per month: it would result in her having negative money at the end of each month. Furthermore she stated that there were ongoing court proceedings which she hoped could be completed before the new rent was determined.
12. In written submissions on behalf of the landlord Mr Spankie of Sudburys provided a brief description of the property including confirmation that the house was centrally heated and double glazed, and that the landlord had supplied the carpets, curtains and white goods. There was off street parking and permit parking.
13. A list of comparables was provided of 4 and 5 bedroom houses at rents of £1300 to £2000 per month.
14. A new front door was to be installed on 9 November. A plumber's report stated that there was no leak found from the wc.

The law

15. In accordance with the terms of section 14 Housing Act 1988 I proceeded to determine the rent at which I considered that the subject property might reasonably be expected to be let on the open market by a willing landlord under an assured tenancy.
16. In so doing I, as required by section 14(1), ignored the effect on the rental value of the property of any relevant tenant's improvements as defined in section 14(2) of that Act and also any items of disrepair which either the tenant had not reported to the landlord or had not allowed access for the landlord to carry out the necessary repairs.

Valuation

17. In coming to my decision, I relied on the rental comparables provided by the landlord and my own general knowledge of rents in Colchester. I noted that the landlord's comparables were advertised as suitable for students and were all either four or five bedroomed properties. Those at the higher end of the range also had two bathrooms. The bottom of the range therefore set a ceiling on the value of the subject property.
18. The tenancy agreement does not allow the tenant to share with others other than her children for which the landlord gave his permission.

19. I am of the opinion that three bedroom houses are available for between £1100 and £1500 per month within a mile of the subject property. Those at the higher end of the range are usually newly refurbished and some are advertised as student lets, fully furnished. Those at the lower end are available unfurnished. All have fitted kitchens, floor coverings and usually white goods.
20. I determine that the open market rent of the property as at 29 October 2023 is £1100 per month to reflect the compact size of the house and its condition. The tenant had reported a leaking shower tray, as evidenced by the staining on the kitchen ceiling. The landlord had confirmed by letter that a plumber would be asked to look at the shower however the plumber's report did not mention the shower tray, only the wc. There would appear to be a leak from the bath since the plaster below is damaged and mouldy.

The decision

21. The revised rent of £1100 per month will take effect from 29 November 2023 since I am satisfied that backdating the increase to 29 October 2023 would cause undue hardship for the tenant.

Chairman: Evelyn Flint

Dated: 19 December 2023

ANNEX - RIGHTS OF APPEAL

- I. If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber), then a written application for permission must be made to the First-tier Tribunal at the Regional Office which has been dealing with the case. The application should be made on Form RP PTA available at <https://www.gov.uk/government/publications/form-rp-pta-application-for-permission-to-appeal-a-decision-to-the-upper-tribunal-lands-chamber>
- II. The application for permission to appeal must arrive at the Regional Office within 28 days after the Tribunal sends written reasons for the decision to the person making the application.
- III. 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.
- IV. 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. Please note that if you are seeking permission to appeal against a decision made by the Tribunal under the Rent Act 1977, the Housing Act 1988 or the Local Government and Housing Act 1989, this can only be on a point of law.

Appendix
Housing Act 1988

14 Determination of rent by rent assessment committee.

(1) Where, under subsection (4) (a) of section 13, 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; and
- (d) in respect of which the same notices, if any, have been given under any of Grounds 1 to 5 of Schedule 2 to this Act, as have been given (or have effect as if given) in relation to 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 his immediate landlord, or
 - (ii) was carried out pursuant to an obligation to his immediate landlord being an obligation which did not relate to the specific improvement concerned but arose by reference to consent given to the carrying out of that improvement;
- (c) any reduction in the value of the dwelling-house attributable to a failure by the tenant to comply with any terms of the tenancy.

(3) For the purposes of subsection (2)(b) above, in relation to a notice which is referred by a tenant as mentioned in subsection (1) above, an improvement is a relevant improvement if either it was carried out during the tenancy to which the notice relates or the following conditions are satisfied, namely—

(a) that it was carried out not more than twenty-one years before the date of service of the notice; and

(b) that, at all times during the period beginning when the improvement was carried out and ending on the date of service of the notice, the dwelling-house has been let under an assured tenancy; and

(c) that, on the coming to an end of an assured tenancy at any time during that period, the tenant (or, in the case of joint tenants, at least one of them) did not quit.

(4) In this section “rent” does not include any service charge, within the meaning of section 18 of the Landlord and Tenant Act 1985, but, subject to that, includes any sums payable by the tenant to the landlord on account of the use of furniture or for any of the matters referred to in subsection (1) (a) of that section, whether or not those sums are separate from the sums payable for the occupation of the dwelling-house concerned or are payable under separate agreements...

(7) Where a notice under section 13(2) above has been referred to the appropriate tribunal, then, unless the landlord and the tenant otherwise agree, the rent determined by the appropriate tribunal ... shall be the rent under the tenancy with effect from the beginning of the new period specified in the notice or, if it appears to the appropriate tribunal that that would cause undue hardship to the tenant, with effect from such later date (not being later than the date the rent is determined) as the appropriate tribunal may direct.

