



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

Case reference : **CAM/00KA/MNR/2023/0097**

HMCTS code : **P:PAPERREMOTE**

Property : **8 Brickly Road, Luton, LU4 9EU**

Applicant (Tenant) : **Lavern Johnson**

Respondent (Landlord) : **Ebenezer Adom**

Type of application : **Determination of a Market Rent:
Sections 13 and 14 Housing Act
1988**

Tribunal members : **Mr P Roberts FRICS CEnv**

Date of Determination : **10 November 2023**

This has been a remote determination on the papers which the parties are taken to have consented to, as explained below. The form of determination was a paper determination described above as P:PAPERREMOTE. The documents that the Tribunal was referred to are in bundles from the Applicant and the Respondent. The Tribunal has noted the contents and the decision is below.

Decision

The Tribunal determined a market rent of £1,200 per month effective from 20 July 2023.

Reasons

Background

1. The Landlord served an undated notice pursuant to section 13 (2) of the Housing Act 1988 to increase the passing rent from £757 per month to £1,300 per month with effect from 20 July 2023. The Tenant has confirmed that this Notice was received on 16 June 2023
2. This rent is stated to be exclusive of Council Tax, Water Charges and fixed service charges.
3. The Tenant made an application on 26 June 2023 to the Tribunal in reliance on section 13 (4) of the Housing Act 1988.
4. The Tribunal issued directions on 21 August 2023 inviting the Parties to submit any further representations (including any photographs and details of rentals for similar properties) they wished the Tribunal to consider.

The Property

5. The Tribunal inspected the Property on 2 October 2023 accompanied by the Tenant. The Landlord did not attend.
6. The Property comprises a mid-terraced, two storey house of brick and tile construction providing a hall, kitchen and lounge at ground floor together with three bedrooms and bathroom at first floor level.
7. There is car parking at the front of the Property and a garden at the rear.
8. The Tribunal noted that the soffits are boarded up to both the front and rear elevations and there did not appear to be any ventilation to the roof void. This can be a cause of condensation to the underside of a roof leading to excessive moisture within the living areas of a property which, in turn, leads to mould and mildew.
9. The Tribunal also noted that the boiler is leaking such that there is mildew and mould in the boiler cupboard.
10. The stairs are missing side panels such that they are dangerous and there is evidence of water ingress through the first-floor ceiling at the

top of the stairs and in the bathroom. The shower appears to leak into the kitchen below.

11. The front door has been damaged and the electrics need attention as they trip when the kitchen light is switched on and the kettle socket is temperamental. In addition, the landlord's hob did not work hence the Tenant has fitted a new one.
12. The EPC rating for the Property is D and the assessed floor area is 84 sqm.

The Tenancy

13. The Tenant took occupation pursuant to an Assured Shorthold Tenancy commencing 20 November 2017 for a term of 2 years and one day.
14. The initial rent under this Tenancy was £757 per month to be paid on the 20th of each month.
15. Clauses B4 and B5 of the AST required the Tenant to:

“Keep the inside of the property in at least as good a condition as it was when the tenancy started (apart from fair wear and tear). Also, at the end of the tenancy you must leave all furniture and fixtures in the rooms or places they were in at the beginning of the tenancy.

Repair any damage that you have done deliberately or that was caused by the neglect or carelessness of you or anyone else living in or visiting the property. This includes repairing damage cause in this way to the property...”

16. Clauses D6 and D7 of the AST required the Landlord to:

Keep the structure and outside of the property in good repair.

Keep the gas, water, electricity, room heating and water heating installations in good repair and proper working order.”

17. Whilst not explicitly stated, the Landlord also has a statutory duty to comply with the obligations to repair the Property as set out in sections 11 to 16 of the Landlord and Tenant Act 1985.

The Law

18. Section 5 (3) of the Act provides that the periodic tenancy arising on expiry of the Assured Shorthold Tenancy is one:

“(a) taking effect in possession immediately on the coming to an end of the fixed term tenancy;

(b) deemed to have been granted by the person who was the landlord under the fixed term tenancy immediately before it came to an end to the person who was then the tenant under that tenancy;

(c) under which the premises which are let are the same dwelling-house as was let under the fixed term tenancy;

(d) under which the periods of the tenancy are the same as those for which rent was last payable under the fixed term tenancy; and

(e) under which, subject to the following provisions of this Part of this Act, the other terms are the same as those of the fixed term tenancy immediately before it came to an end, except that any term which makes provision for determination by the landlord or the tenant shall not have effect while the tenancy remains an assured tenancy”

19. Section 14 of the 1988 Act provides that the Tribunal is required to determine the rent at which the Property might reasonably be expected to let in the open market by a willing landlord under an assured tenancy:

- a. “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 rent) are the same as those of the existing tenancy.”*

20. Section 14 (2) of the 1988 Act requires the Tribunal to disregard:

- 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 (as defined by section 14 (3) of the Act) otherwise than as an obligation;*
- 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.”*

21. Examples of a tenant’s failure to comply with the terms of the lease may include, for example, a lack of redecoration.

22. Section 11 of the Landlord and Tenant Act 1985 (the 1985 Act), provides that the Tribunal is to imply a covenant by the Landlord:

- a. “to keep in repair the structure and exterior of the dwelling-house (including drains, gutters and external pipes),*
- b. to keep in repair and proper working order the installations in the dwelling-house for the supply of water, gas and electricity and for sanitation (including basins, sinks, baths and sanitary*

conveniences, but not other fixtures, fittings and appliances for making use of the supply of water, gas or electricity), and

c. to keep in repair and proper working order the installations in the dwelling-house for space heating and heating water.”

23. Section 14 (7) of the 1988 Act states:

“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 (subject, in a case where subsection (5) above applies, to the addition of the appropriate amount in respect of rates) 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.”

Representations – The Tenant

24. The Tenant completed their Reply Form and advised that *“no improvements have been carried out since I’ve moved in which was on the 20/11/17.”*

25. In addition, the Tenant advised that she had painted the interior of the Property and replaced wallpaper due to mould and leaks as well as installing curtain poles. The Tenant also drew the attention of the Tribunal to:

1. Electrical works to kitchen and bathroom not working
2. Faulty plumbing to bathroom and boiler
3. Faulty kitchen hob.

26. The Tenant did not provide any evidence of rental values.

Representations – The Landlord

27. The Landlord has taken no part in these proceedings.

Determination

28. In determining the market rent, the Tribunal has regard to prevailing levels of rent in the general locality and achieved rental values in respect of other properties of comparable accommodation and provision that would be likely to be considered by a prospective tenant. The current rent and the period that has passed since that rent was agreed or determined is not relevant.

29. The legislation requires the Tribunal to have regard to market demand assuming that the landlord is willing. The Tribunal is therefore unable to have any regard to the personal circumstances or identities of the actual landlord and tenant in assessing the level of rent.
30. In addition, historic matters between the actual landlord and tenant are not relevant to the rent likely to be offered by a prospective tenant. The Tribunal can therefore only have regard to the Property as it actually exists on the relevant date of the proposed rent review having regard to the statutory assumptions.
31. As set out above, section 14 of the 1988 Act requires the Tribunal to determine the rent at which the Property might reasonably be expected to let with effect from the date specified for commencement of the new rent as set out in the section 13(2) Notice.
32. In effect, the Property is assumed to have been vacated, fully redecorated and be available on the market for occupation by an incoming tenant.
33. The Tribunal considers that the Landlord's proposed rent of £1,300 per month would not be unreasonable if the Property was fitted out to a standard commensurate with market expectations, was rewired to current standards, and was free from leaks, mould and mildew.
34. However, the Property does not meet the required standards which is entirely due to a failure on the part of the Landlord to comply with its responsibilities both under statute and the terms of the lease. This therefore makes the Property less attractive comparable to those properties available to let on the market.
35. In the absence of any evidence from either the Tenant or the Landlord, the Tribunal has applied its own expertise and knowledge. In this regard, the Tribunal determines the market rental of the Property as at the effective date to be **£1,200 pcm**. The rent payable may not, therefore, exceed this figure.
36. **However, this does not prevent the Landlord from charging a lower figure.**

Name: Peter Roberts FRICS CEnv

Date: 10 November 2023

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).