



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

Case reference	:	BIR/OOFN/MNR/2023/0264
Property	:	48 Dean Road Leicester LE4 6GN
Applicant	:	Rekha Sidhpura
Representative	:	None
Respondent's	:	Avani Thakrar
Representative	:	None
Type of application	:	Application under Section 13(4) of the Housing Act 1988 referring a notice proposing a new rent under an Assured Periodic Tenancy
Tribunal members	:	Mr G S Freckelton FRICS Mrs K Bentley
Venue and Date of Determination	:	The matter was dealt with by a Paper Determination on 7th August 2024

DETAILED REASONS

BACKGROUND

1. On 8th December 2023, the Applicant (tenant of the above property) referred to the Tribunal, a notice of increase of rent served by the Respondent (landlord of the above property) under section 13 of the Housing Act 1988. The application was received by the Tribunal on 14th December 2023.
2. The Respondent's notice, which proposed a rent of £1,196.00 per calendar month with effect from 1st January 2024, is dated 20th November 2023.
3. The date the tenancy commenced is stated on the Application Form as being on 1st November 2014, although the tenancy agreement included in the submissions confirms that it commenced on 1st March 2015 for an initial period of 19 months, expiring on 30th September 2016. At the expiration of the initial period the tenancy became an Assured Periodic Tenancy. The current rent is stated in the Application as being £995.00 per calendar month.
4. The Tribunal issued Directions on 9th April 2024.

THE PROPERTY

5. Neither party requested either an inspection or hearing and the Tribunal has therefore determined the matter based on the papers provided to it.
6. Based on the application form the property is understood to be a semi-detached house comprising entrance porch, hallway, cloakroom/W.C., two living rooms and kitchen on the ground floor. On the first floor the landing leads to three bedrooms and family bathroom.
7. In his submissions the Respondent states that the property has three living rooms, the third being a dining room. The Tribunal understands there is an extended kitchen with dining area.
8. The house is understood to have gas fired central heating and double glazing. Carpets and curtains are provided by the Landlord. The Landlord has provided the washing machine and cooker. There is noted to be a dishwasher, which the Applicant states is not working. Based on the Respondent's submissions there is no fridge or freezer included in the tenancy.
9. There is (as evidenced by the photographs provided) a built-in stair lift but this is not in use by the Applicant.
10. Outside there are gardens and a garage.

EVIDENCE

11. The Tribunal received written representations from both parties which were copied to the other party.

THE APPLICANT'S SUBMISSIONS

12. In summary, the Applicant submitted:

- 1) That there had been an increase in rent from January 2023 from £810.00 to £995.00 per month.
- 2) That there had been numerous rent increases since the tenancy commenced.
- 3) That the Applicant could not afford the increase and she had a daughter with special needs requiring 24-hour care.
- 4) That the rental proposed was causing her stress and adversely affecting her health.
- 5) That the condition of the property did not warrant such a high rent.
- 6) That repairs were still required to the kitchen ceiling.

THE RESPONDENT'S SUBMISSIONS

13. In summary, the Respondent submitted:

- 1) That rental levels for similar properties in the area were in the region of £1,200.00 - £1,300.00 per month. In particular:
 - a) Oakfield Avenue, Birstall – offered at £1,200.00 per month.
 - b) Herricks Avenue, Leicester – offered at £1,200.00 per month
 - c) Melton Avenue, Leicester – offered at £1,300.00 per month
 - d) Stanier Drive, Leicester – offered at £1,200.00 per month
 - e) Dean Road, Leicester – offered at £1,400.00 per month
- 2) All the above properties are semi detached houses with central heating and double glazing.

14. It was submitted that the property on Dean Road had actually been let at £1,400.00 per month. Although it had four bedrooms as opposed to three bedrooms in the subject house, number 48 Dean Road benefitted from a garage and additional ground floor space.

15. Several other comparables were submitted but, as there were different property types, did not assist the Tribunal.

16. In the Respondent's email requesting Reasons, he stated that the property had a boarded loft. This was not previously referred to in the submissions. However, had the Tribunal been aware of the boarded loft it would not have had any material effect on the rental value determined.

THE LAW

17. In accordance with the terms of section 14 Housing Act 1988 the Tribunal proceeded to determine the rent at which it considered that the subject property might reasonably be expected to be let on the open market by a willing landlord under an assured tenancy.

18. In so doing the Tribunal, 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.

THE TRIBUNAL'S DECISION

19. In the first instance the Tribunal considered the various comparables provided by the Respondent. It also considered the photographs of the property taken prior to the commencement of the tenancy and determined that the property was dated and would require modernisation if it was to be offered on the open market at the present time.
20. Having regard to the comparables provided and the general level of rents in the area the Tribunal concluded that the rental value of the subject property is £1,250.00 per calendar month.
21. The Tribunal then considered the items of disrepair being the broken dishwasher and condition of the kitchen ceiling. The Tribunal determined that a deduction of £65.00 per month was appropriate to reflect these items and the general condition of the property as follows:
- | | |
|-----------------------------|--------------|
| General condition | 50.00 |
| Broken dishwasher | 5.00 |
| <u>Lack of refrigerator</u> | <u>10.00</u> |
| Total | £65.00 |
22. The Tribunal therefore determined that the rent at which the property might reasonably be expected to be let on the open market would be £1,185.00 per calendar month (£1,250.00 - £65.00).
23. The Tribunal then considered the question of hardship and determined that if the increase was implemented from 1st January 2024, being the date specified on the Respondent's Notice of Increase, hardship would be caused to the Applicant. The Tribunal also had regard to the Applicant's position as a carer for her daughter who had special needs and the general stress, she stated she was under.
24. The Tribunal therefore determined that there was hardship in this case and determined that the increase in rent should be effective from 7th August 2024, being the date of the Tribunal's decision.

APPEAL

25. Any appeal against this Decision can only be made **on a point of law** and must be made to the Upper Tribunal (Lands Chamber). Prior to making such an appeal the party appealing must apply, in writing, to this Tribunal for permission to appeal within 28 days of the date of issue of this Decision, (or, if applicable, within 28 days of any decision on a review or application to set aside) identifying the decision to which the appeal relates, stating the grounds on which that party intends to rely in the appeal, and stating the result sought by the party making the application.

G S Freckelton FRICS
Chairman
First-tier Tribunal Property Chamber (Residential Property)