



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

Case Reference : **CAM/00JA/MNR/2024/0052**

Property : **12 The Spinney
1 Neath Court, Eye
Peterborough
Cambridgeshire
PE6 7GH**

Applicants : **Alice Tetter (Tenant)**

Representative : **Martin St John Davis (Agent)**

Respondent : **Longhurst Group (Landlord)**

Representative : **None**

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

Tribunal Members : **Mr N Martindale FRICS**

Date and venue of Hearing : **17 May 2024 (on Papers)
Cambridge County Court, 197 East
Road, Cambridge CB1 1BA**

Date of Decision : **17 May 2024**

REASONS FOR DECISION

Background

- 1 The First Tier Tribunal received an application unsigned but dated 11 March 2024 from the tenant 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 1 February 2024, proposed a new rent of £320.79 per week with effect from and including 1 April 2024. The passing rent was stated in the notice, as £251.13 per week from 7 April 2024. The Notice complied with the requirements of the Act.
- 3 The tenancy is an assured shorthold periodic monthly tenancy. A copy of the tenancy and of the landlord's Notice was provided.

Inspection

- 4 The Tribunal did not inspect the Property internally but viewed the exterior from a Google Street View image of the Property as seen from the public road (taken @ May 2021). The Property is a small purpose built flat in a modern, perhaps 1990's, large 2/3 level block of similar flats. The block provides sheltered housing for residents and offers a range of internal communal facilities to the ground level. The block has a passenger lift to all levels.
- 5 This block is located adjacent to communal gardens and off street parking for residents. The flat is on the ground floor. The block is located and forms part of a larger established modern residential estate from the same period and fronts on to a suburban road.
- 6 The external face of the walls are of a brick finish. The roof appears as low mono pitch or flat. The windows are double glazed and there is full central heating. There are communal areas to and around the block.
- 7 The Property accommodation is on one level: bedroom, wet room & WC, living room, kitchen. There are no stated tenants improvements or additions.
- 8 The Property was said not to be let with carpets, curtains, and white goods, these were provided by the tenant.

Representations

- 9 Directions, dated 19 March 2024, for the progression of the case, were issued by Legal Officer Laura Lawless. Neither party requested a hearing. The tenant filed their Application Form with details of the tenancy referred to and the standard Reply Form. The landlord completed the standard Reply Form with some 16 or so photographs of the Property and communal areas inside the block.
- 10 The landlord did not provide any local evidence of recent lettings of similar accommodation in sheltered or other arrangement.
- 11 The Tribunal is grateful for and has carefully considered such written representations as it received, from parties.

Law

- 12 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

- 13 Based on the Tribunal's own general knowledge of market rent levels in Eye, it determines that the subject property would let on normal Assured Shorthold Tenancy (AST) terms, for £260 per week, including all normal block services for a general market (not sheltered housing) Property, fully fitted and in good order at the valuation date April 2024.
- 14 The letting by the landlord however omits carpets curtains and white goods for which the Tribunal makes a weekly deduction of £15. The market rent would therefore be £245 per week.
- 15 However this is a not a normal AST. The landlord provides a number of services: to the communal areas; to the Property; and to the tenant in person. Many but not all of these would as a matter of course be included in a market rent of a 1 bedroom flat at £245 per week but which here the landlord has chosen to account for and recharge separately from a base rent. The landlord's Form 4 Notice schedule rather confusingly sets out two sets of numbered and detailed items.
- 16 Landlords Notice, Form 4, page 1, states a new Rent of £320.79 per week. This figure includes weekly sums for: Service Charge £124.59 (to communal areas) and for: Electric £24.84; Food £23.60; Heating £7.38; Water £6.44; Lifeline Charge £1.50. (to the Property).
- 17 These non Rent additions total £188.35, leaving an un-stated 'base rent' of £132.44 per week for the Property which would be very low. A tenant would ordinarily generally expect to pay separately for some items which the landlord provides here, but that payment would be made direct to the supplier, not to the landlord as here and not form the part of any rent to the landlord under an AST.
- 18 Landlords Notice, Form 4, page 2 includes a long schedule of heads of expenditure, 25No. in all. Each item has a "*weekly cost for your property*". They are arranged in 3 groups of cost.
- 19 Group 1. "*Cost of Services £99.41*". Group 2. landlord's "*Management Charge £14.92*" (at an un-stated 15% of group 1 costs) and "*Renewals £10.26*" (without a clear basis). Group 3. "*Personal Charge £62.26*" of electricity food heating and water (brought forward from page 1 but omitting the Lifeline charge this time).

- 20 Thus the tenant enjoys the use and occupation of the Property; with communal services and facilities; with some services to the flat; and some services to the tenants as individuals. The landlord is seeking to recover these various heads.
- 21 Of these the Tribunal accepts (for this determination under S.13 of the Act, only) the heads of cost and the figures provided by the landlord save for item 21 “*Renewals*”. Under the Tenants Fees Act 2019 these are now “*Prohibited Payments*”. No landlord may seek to recover them from a tenant. Schedule 1 of that Act sets out the heads of payment that may be sought from tenant. The cost of “renewals” of tenancies is not found. There is in any case no evidence that this lease has actually been renewed, rather than simply rolled over periodically once a year. The sum of £10.26 was therefore excluded from recovery.
- 22 As a check the Tribunal adopts the landlord’s base rent of £132.44 pw, adding Group 1 communal service charges of £99.41 pw, with Group 2 management cost of same £14.92 pw, producing a virtual AST market rent of £246.77 pw. However the Tribunal prefers its market based approach to this artificial calculation and adopts an open market rent of £245 pw as set out above.
- 23 To this must be added the Group 3 charge for the personal services provided to the tenant, taken at their face value of £62.66. Total payment amounts to £245 plus £62.66, or a new market rent of £307.66 per week under this AST. The Tribunal determines this as the new rent under this AST including the cost of all services.
- 24 As a separate matter the reasonableness and payability of all and any of the services charges for the services provided to this Property directly and to the communal areas, by the landlord remain open to challenge. This may be by a separate tenant’s application under S.27 of the Landlord and Tenant Act 1985. The determination here is simply one of the open market inclusive weekly rent under S.13 at the valuation date and that happens to include very substantial elements of service and personal charges.
- 25 The Tribunal determines a new rent of £307.66 pw is payable from and including the date set out in the Landlord’s Notice, 1 April 2024. The landlord may charge any rent up to and including £307.66 per week but is not obliged to. It may not charge a rent in excess of this figure.

Chairman N Martindale FRICS

Dated 17 May 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).