



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

Case Reference : **CAM/00JA/MNR/2024/0053**

Property : **Room 4, 37 Hinchcliffe, Orton Goldhay,
Peterborough PE2 5SR**

Applicant (Tenant) : **Derek Welsh**

**Respondent (Landlord):
Agent** : **Grant Biddle
Bee Lettings Ltd (T/A Bee Residential)**

Type of Application : **Determination of a market rent under
Section 13 of the Housing Act 1988**

Tribunal Members : **Judge JR Morris
Mr GF Smith MRICS FAAV REV**

Date of Decision : **13th May 2024**

DECISION

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DECISION

1. The Tribunal determined that a market rent for the Property in its present condition is £575.00 per calendar month to take effect from 9th April 2024.

REASONS

PROPERTY DESCRIPTION

2. The following description of the House and Property are derived from the Tribunal's own knowledge of the area and the Reply Forms and Representations of the parties.
3. The Property is a studio flat on the first floor of a three-storey mid terraced house (the House) in a row of two and three storey houses on a residential estate. The House has timber clad external front and rear elevations with a shallow pitch roof of concrete tiles, probably constructed in the 1970s. The external doors of the House are upvc as are the window frames with double glazed units. There is a communal garden to the rear. There are parking bays across the estate. These are not allocated to houses and are available on a first come basis for those living in the House and surrounding properties. The House is set back from the road and access is by pedestrian pathways.

Accommodation

The House

The House comprises a hallway off which are two studio flats (numbered Room 1 and Room 2) on the ground floor. Stairs rise from the hallway to the first-floor landing off which are two studio flats (numbered Room 3 and Room 4, which is the Property) and a communal bathroom. Stairs rise from the landing to the second floor where there are a further two studio flats (numbered Room 5 and Room 6). The hall, stairs and landings, the bathroom on the first floor and washing machine on the second floor are the only communal areas. Five of the studio flats are the same. One of the studio flats on the ground floor is larger and has direct access to the garden.

The Property

Property is numbered Room 4 and is located on the first floor. It comprises a bed/sitting room (10ft x 10ft) with a kitchenette (6ft x 3ft) and an ensuite shower room, wash hand basin and w.c. (5ft x 6ft).

Services

The House has a central boiler which provides space and water heating to all the rooms together with mains electricity, gas, water, and drainage. The cost of Council Tax, gas, electric and water is included in the rent.

Furnishing

The Property is let unfurnished. Floorcoverings of carpets and tiles where appropriate and curtains are provided by the Landlord.

Location

The House is situated on a residential estate in Orton Goldhay, a suburb of Peterborough.

THE TENANCY

4. The Tenancy commenced as a contractual monthly periodic Assured Shorthold Tenancy on 9th June 2023 for a period of 6 months at a rent of £525.00 per calendar month and continues thereafter as a statutory tenancy on the same terms. Section 11 of the Landlord and Tenant Act 1985 applies in respect of the Landlord's repairing obligations. There is a provision in the Tenancy which states that the Council Tax is paid to the Landlord.

THE REFERRAL

5. The current rent is £525.00 per calendar month as per the initial 6 months fixed term contractual agreement. That initial contractual agreement having terminated on 8th December 2023, under section 13 of the Housing Act 1988, the Landlord now proposes a new rent, which will be for a minimum of one year, for the ongoing statutory tenancy. By a notice in the prescribed form dated 22nd February 2024 the Landlord proposed a new rent of £575.00 per calendar month from 9th April 2024.
6. On 8th March 2024 the Tenant referred the notice proposing a new rent to the Tribunal. Directions were issued on 19th March 2024 informing the parties that the Tribunal did not intend to hold an oral hearing unless a request was made by 16th

April 2024. The Landlord requested a hearing which took place via the Courts Virtual Platform on 13th May 2024. No inspection was requested. The Parties completed the Reply Form attached to the Directions.

THE LAW

7. The relevant law is in section 14 of the Housing Act 1988 which is summarised below.
8. By virtue of section 14 (1) Housing Act 1988 the Tribunal is to determine a rent at which the dwelling-house concerned might reasonably be expected to be let in the open market by a willing landlord under an assured periodic 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 subject Tenancy
9. By virtue of section 14 (2) Housing Act 1988 in making a determination the Tribunal shall 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) Housing Act 1988) carried out by a tenant otherwise than as an obligation; and
 - (c) any reduction in the value of the dwelling-house due to the failure of the Tenant to comply with any terms of the subject Tenancy.
10. By virtue of section 14 (3A) and (3B) where a Landlord is liable to pay Council Tax for a building of which the dwelling is a part and the Council Tax is included in the rent, e.g. a House in Multiple Occupation, the determination shall include the Council Tax in the rent.
11. Nothing in section 14 affects the right of the landlord and the tenant under an assured tenancy to vary by agreement any term of the tenancy (including a term relating to rent).

REPRESENTATIONS

12. A video hearing took place via the Courts' Virtual Platform on 13th May 2024 to which both parties were invited. The Landlord attended. The Tenant did not attend and had stated on the Reply Form that he did not require a hearing.
13. At the hearing the Landlord confirmed the description of the House and Property set out above. He also confirmed that the House was a licensed House in Multiple Occupation notwithstanding that each of the units was a self-contained studio flat.
14. In response to the Tribunal's questions the Landlord said that the rent proposed was based upon the Local Housing Authorities housing benefit rate for studio flats which had risen from £550.00 per calendar month to £575.00 per calendar month from the 1st April 2024. He said that the rent was the same for five of the flats but for the larger ground floor garden flat the rent had gone up to £625.00 per calendar month.

15. The Landlord said that he believed the Tenant had referred the rent to the Tribunal to check whether it was reasonable, as he was concerned that he would struggle to pay the increase, rather than because he had a complaint about the Property.

DETERMINATION

16. The Tribunal determines a market rent for a property by reference to rental values generally and to the rental values for comparable properties in the locality, in particular. The Tribunal does not take into account the present rent and the period of time for which that rent has been charged nor does it take into account the percentage increase which the proposed rent represents to the existing rent.
17. The Tribunal only has jurisdiction to determine the rent. The Tribunal cannot take into account the personal circumstances of either a tenant or landlord, such as the affordability of a rent for a particular tenant or a rise in the mortgage interest rate for a landlord.
18. Although the Tribunal acknowledges that the Local Housing Authority's Housing Benefit rate can act as a guide to assess a reasonable rent, nevertheless it must make its own assessment based on market rents in the locality. The Tribunal found that notwithstanding the House was licensed as a House in Multiple Occupation (an HMO) the units had the features and facilities of studio flats. The Tribunal found that the rents for studio flats in the locality are in the range of £550.00 to £650.00 per calendar month. Those at the upper end appear larger than the Property and those at the lower end are of the same or similar size, however the Tribunal took into account that independent units are liable to Council Tax and the cost of utilities in addition to the rent, whereas these items are included in the rent for the Property.
19. The Tribunal therefore determined the proposed rent of £575.00 per calendar month to be a reasonable market rent for the Property under the present assured shorthold periodic tenancy.
20. The Tribunal determined that a market rent for the Property is **£575.00 per calendar month to take effect from 9th April 2024.**

Judge JR Morris

APPENDIX - RIGHTS OF APPEAL

1. If a party wishes to appeal the 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.
2. 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.
3. 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.

4. 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.