



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

Case reference : **CAM/00JA/MNR/2024/0088**

HMCTS code : **P:PAPERREMOTE**

Property : **43 Springnall, Bretton,
Peterborough, PE3 9YG**

Applicant (Tenant) : **B Milborne and K Goodwin**

Respondent (Landlord) : **A Yasin and S M Shah**

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 : **5 August 2024**

DECISION

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 £1,000 per calendar month effective from 13 April 2024.

Reasons

Background

1. On 12 April 2024 the Landlord served notice under section 13 (2) of the Housing Act 1988 to increase the passing rent from £900 per calendar month (pcm) to £1,100 per month with effect from 16 May 2024.
2. This rent is stated to be exclusive of Council Tax, Water Charges and fixed service charges.
3. The Tenant made an application dated 30 April 2024 to the Tribunal in reliance on section 13 (4) of the Housing Act 1988.
4. The Tribunal issued directions on 8 May 2024, 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 has not inspected the Property but has relied on the documents provided by the Parties together with information in the public domain including Google Images and Land Registry.
6. The Property comprises a two-storey mid terraced house of brick and tile with a pitched roof providing a living room, WC and kitchen on the ground floor with three bedrooms and a bathroom on the first floor. It benefits from central heating, double glazing, carpets & curtains and a cooker. The Tenant has provided the washing machine and fridge.
7. There is a garden to the rear together and a garage in a separate block located away from the house.

The Tenancy

8. The Tenant occupied the Property by virtue of an Assured Shorthold Tenancy that commenced 16 April 2018 and expired on 15 April 2019.
9. The initial rent under this Tenancy was £750 pcm.
10. The Tenant's repair obligations are set out at Section 5. Clause 1.3 states:

“Not to damage the Property and Contents and not to make any alteration or addition to the Property (including, but not limited to, interfering with the internal or external decoration at the Property) without the written permission of the Landlord such permission not to be unreasonably refused.”

11. Clause 5.2 states:

“To keep the interior of the Property and the Contents in at least as good and clean condition and repair as they were at the commencement of the tenancy, with fair wear and tear excepted and to keep the Property reasonably aired and warmed.”

12. Clause 8.3 states:

“The Landlord agrees to carry out any repairing obligations as required by section 11 of the Landlord and Tenant Act 1985.”

13. In the absence of a new Tenancy being entered into, an Assured Periodic Tenancy pursuant to Section 5 (2) of the Housing Act 1988 (the 1988 Act) has arisen such that Sections 13 and 14 of the Act now apply.

The Law

14. 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”

15. 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.”*
16. 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.”*
17. 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.”*
18. 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

19. The Tenant completed the Reply Form on 7 June 2024 and highlighted a number of issues concerning disrepair, obsolescence, damage and mould.
20. In addition, the Tenant attached a Statement seeking to rebut various points made by the Landlord in their Reply Form dated 20 May 2024. The Tribunal does not consider it helpful to list all the points made but has taken this Statement fully into account.
21. The Tenant also attached summary details of seven properties let at rents from £775 to £1,000 pcm together with an example of a four bedroomed end of terrace property at Holme Way advertised at the same rent as specified in the section 13 Notice.

Representations – The Landlord

22. The Landlord submitted a completed Reply Form dated 20 May 2024 together with a further Statement.
23. The Landlord confirmed that the roof of the house and the garage were refurbished in early 2024 and provided a chain of emails with Leaders (their managing agents) dating back to 16 April 2024.
24. The Landlord also attached examples of eleven properties let at rents from £1,095 to £1,600 pcm and drew attention to the Property benefitting from a garage.

Determination

25. 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.
26. 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.
27. In that regard, it is irrelevant whether or not the Landlord requires the rent to be at a certain level to fund its repair obligations under the lease or whether the Tenant feels that the services provided by the Landlord are “value for money”. As such, the cost of property maintenance to the Landlord does not affect the rent that would be offered by a prospective tenant in the market and must be disregarded.
28. However, as set out above, the Tribunal is required to have regard to the obligations of the Landlord and Tenant in respect of the repair,

maintenance and upkeep of the Property and take into account the extent to which these obligations have been complied with.

29. As set out above, section 14 (2) (c) of the 1988 Act requires the Tribunal to disregard any failure by the Tenant to comply with their lease obligations. However, the Tribunal is to have regard to matters that do not arise as a direct consequence of the Tenants' failure to comply with any of their obligations.
30. There is clearly a difference of opinion between the Landlord and the Tenant as to whether or not the Property meets the standard of repair and decoration commensurate with properties that are on the market vacant and to let. Nevertheless, the Tribunal is satisfied that the Property has deteriorated and requires refurbishment.
31. Similarly, there is a distinct contrast between the rental evidence provided by the Landlord and the Tenant. Nonetheless, the Landlord does refer within their Statement to "*...2-3 properties being advertised in Bretton at £1,050/ month, but we want to highlight the fact that these properties did not have access to a garage.*"
32. It seems, therefore, that, in proposing £1,100 pcm the Landlord has added for the benefit of a garage but not made any deduction to reflect the condition of the Property.
33. Taking this into account together with its own knowledge and expertise in such matters, the Tribunal considers that the Property could achieve a rent of £1,100 per month if it was modernised throughout and was redecorated. However, it is necessary to adjust to account for the state of the Property as it actually exists.
34. The Tribunal therefore determines the market rental of the Property to be **£1,000 pcm**. The rent payable may not, therefore, exceed this figure. However, this does not prevent the Landlord from charging a lower figure.
35. This rent is to be effective from **16 May 2024**.

Name: Peter Roberts FRICS CEnv

Date: 5 August 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 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 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.

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).