



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

Case reference : **CAM/00KF/MNR/2023/0158**

Property : **35 Ceylon Road, Westcliff on Sea,
Essex, SSo 7HS**

Tenant Applicants : **Altin Pjetri and Leonora Lazri**

Landlord Respondent : **Kevin Anthony Hayes**

Type of application : **Section 14 of the Housing Act 1988
Determination of market rent
payable.**

Tribunal member(s) : **Judge B MacQueen
Mr R Thomas, MRICS**

Date of hearing : **8 January 2024**

Date of decision : **26 January 2024**

DECISION

Description of hearing

The Tribunal completed an inspection at approximately 10am on 8 January 2024 and then a remote audio hearing at approximately 4pm on 8 January 2024. The parties consented to a remote audio hearing and a face-to-face hearing was not held because all issues could be determined in a remote hearing. Leonora Lazri attended the remote audio hearing for the Applicants and Kevin Hayes attended for the Respondent.

Decision:

1. The Tribunal determines a rent of **£975** per calendar month to take effect from 8 January 2024.

Reasons

Background

2. The Landlord by a notice in the prescribed form dated 11 October 2023 proposed a new rent of £1 250 per calendar month (pcm) to be effective from 23 November 2023. This was in lieu of the previous rent of £800 pcm. On 1 November 2023 the Tribunal received from the Tenants the Notice referring the matter to the Tribunal.
3. The Tribunal made Directions dated 3 November 2023 in which the Tenants and Landlord were requested to complete a pro forma supplying detail of the accommodation on a room by room basis, the features of the property (central heating, white goods, double glazing, carpets and curtains) and other property attributes and any further comments that they may wish the Tribunal to take into consideration. This could include any repairs and improvements that had been made, any comments on the condition of the Property and rentals of similar properties – should they wish to rely on these.
4. They were invited to include photographs and were informed that the Tribunal may use internet mapping applications to gather information about the location of the Property and may inspect the Property.
5. The determination would take place based on the submissions from both parties unless either party requested a hearing. A reply form was submitted by the Landlord dated 22 November 2023 in which he requested a telephone hearing. A reply form dated 30 November 2023 was also submitted by the Tenants in which they also requested a telephone hearing.

The Property

6. The Tribunal inspected the property. Leonora Lazri was present at the inspection. The Landlord arrived outside the Property but did not come into the Property for the inspection.
7. The Property is a two bedroomed ground floor flat.
8. The accommodation comprised a living room, kitchen, and bathroom and two bedrooms. Central heating had been provided by the Landlord, however there was no double glazing at the Property.
9. A cooker had been provided by the Landlord, however the fridge and washing machine had been provided by the Tenants. The floor

coverings had been provided by the Landlord, with the curtains provided both by the Tenants and the Landlord.

10. There was off-street parking to the front of the Property and a small garden to the rear.
11. The Tenants had replaced the tiles in the bathroom and fitted a cabinet. Fittings and fixtures in the bathroom were adequate but basic and the overall impression was tired.
12. The kitchen was also tired in appearance with cupboards that were dated and in poor condition. The window in the kitchen did not open.
13. The window in the living room was a louvre window which at one time seemed to have a handle that could be used to open it. The window appeared to not open now as there was no operating mechanism and there was a seal round the edge of the window.
14. Bedrooms were of a reasonable size, however the window did not open. Additionally in bedroom 2 there was a patio style door which opened to the garden, but this was in very poor condition as there was damp on the inside of the glass, cracks and the Tenants reported that rainwater leaked through.

The Tenancy

15. The tenancy commenced on 23 January 2021 and a copy of an assured shorthold tenancy agreement was provided. The tenancy term was for an initial period of 6 months and a statutory tenancy on the terms of the written agreement appears to have arisen from 23 July 2021. Section 11 of the Landlord and Tenant Act 1985 applies in respect of Landlord's repairing obligations.
16. The tenancy agreement of 23 January 2021 states the rent to be £800 pcm.

The Law

17. 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.
18. 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.

Representations – Tenants

- 19. In written evidence the Tenants said that since they had lived at the Property the Landlord had not done anything to the Property. The Tenants also stated that they had tiled the bathroom at their own expense because the tiles were broken. They also described the bathroom as old and smelly. Additionally, they stated that most of the windows at the property did not open, and the kitchen cupboards were broken, mouldy and smelly.
- 20. At the hearing Leonora Lazri confirmed that because most of the windows and the patio door did not open, ventilating the Property and keeping it at a comfortable temperature in hot weather was difficult. The Tenant confirmed that the windows have never opened in all the time they have been at the Property. The patio style door in bedroom two caused significant problems as the door did not open and was in poor condition. This troubled them as this was the room that their child slept in. Leonara Lazri further confirmed that the kitchen was not of a good standard and had broken cupboards.

Representations – Landlord

- 21. In written evidence the Landlord told the Tribunal that the Tenants had replaced the tiles in the bathroom without permission. The Landlord also stated that he considered that the Property was under-priced when it was first let and that the Landlord had replaced the boiler within three days of notification that it had failed. The Landlord also made reference to a dispute between the Landlord and Tenants about the Tenants using an additional parking space.
- 22. At the hearing, the Landlord said that the Tenants had not made a complaint about the Property, although this was disputed by the Tenants. The Landlord also said that he was not aware that the louvre windows did not open as this had not been reported to him. Regarding the kitchen, the Landlord stated that the cupboards had been repainted prior to the Tenants moving into the Property and that he did not believe the kitchen was smelly when the Tenants moved in.

23. Regarding the bedrooms, the Landlord said that it was an old property and he wanted to keep it authentic. He also said that the doors in the second bedroom were part of the character of the Property.
24. The Landlord felt that the tiles in the bathroom were not that old and were not cracked and had been replaced by the Tenants without his permission.
25. The Landlord confirmed that the boiler had been replaced in March 2022.
26. In terms of other rentals, the Landlord referenced a 2/3 bedroom property in Ceylon Road (which was the same road as this Property) which had a rent of £1 300 pcm, and another in a neighbouring street (Argyll Road) that was £1 395 pcm. In the Landlord's written evidence there was included a property at Britannia Road, Westcliff-on-Sea which was a two bedroom flat with an asking rent of £1 395 pcm and a two bedroom flat at Argyll Road, Westcliff-on-sea with an asking rent of £1 495 pcm.

Determination

27. 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. It does not take into account the present rent and the period of time which that rent has been charged nor does it take into account the percentage increase which the proposed rent represents to the existing rent. In addition, the legislation makes it clear that the Tribunal cannot take into account the personal circumstances of either the landlord or the tenant.
28. The Tribunal assesses a rent for the property as it is on the day of the hearing disregarding any improvements made by the tenant but taking into account the impact on rental value of disrepair (if any) which is not due to a failure of the tenant to comply with the terms of the tenancy.
29. The Tribunal found the Property to be in need of work before it would match other properties which form the general market. The poor quality of the windows (which were not double glazed) and patio door in the bedroom was a significant factor. Whilst the Tribunal did not attempt to open any of the windows or patio door during the site visit, the Tenant was clear that the windows and patio door did not open. The Tribunal accepted the Tenants' evidence that the windows did not open as there were no handles by which the louvre window in the living room could be opened and it was possible to see that a plastic seal had been applied to the window, which appeared to make it impossible to open. The Tribunal found that the condition of the patio door in the bedroom was poor and it was possible to see damp inside the glass.

The condition of the window and patio door would have a detrimental effect for anyone living at the Property.

30. The Tribunal was aware that there appeared to be a dispute between the Landlord and Tenants as to whether there was one or two parking spaces with the Property. The Tribunal made no comment on this dispute but confirmed that the valuation has been based on the Property having one parking space as this is what the Landlord believed was available to the Tenants.
31. The Tribunal had regard to the views of both the Landlord and the Tenant. The Tribunal considered the comparables that the Landlord had provided, but noted that these were asking prices. The Tribunal has also had regard to its own knowledge and experience. It determined that the open market rent of a property in good condition for its age and type would be around £1 275 pcm.
32. The Tribunal then made a deduction of £300 to reflect the poor condition of the windows and patio doors, the basic nature of the bathroom and kitchen, the need for some redecoration, the provision by the Tenant of some white goods and curtains and their work to tile the bathroom, and arrived at a rent for the subject property of £975 per calendar month.
33. Section 14(7) of the Housing Act 1988 gives the Tribunal discretion to determine the date the rent takes effect where backdating the rent to the beginning of the new period specified in the Notice would cause undue hardship to the Tenant. The Tenants told the Tribunal that an increase in rent would cause them hardship, in particular because of their income and their young family. The Tribunal considered this submission and exercised its discretion and determined that the rent of £975 per calendar month would take effect from 8 January 2024, the date of the hearing.

Tribunal Judge Bernadette MacQueen

Date: 26 January 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 on a point of law 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).