



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

Case reference : **CAM/00MG/MNR/2024/0086**

HMCTS code : **P:PAPERREMOTE**

Property : **13 Frankston Avenue, Sony
Stratford, MK11 1DR**

Applicant (Tenant) : **John Mullen**

Respondent (Landlord) : **Lee Bannister**

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 £1,100 per calendar month effective from 13 April 2024.

Reasons

Background

1. On 11 March 2024 the Landlord served notice under section 13 (2) of the Housing Act 1988 to increase the passing rent from £970 per calendar month (pcm) to £1,200 per month with effect from 13 April 2024.
2. This rent is stated to be exclusive of Council Tax, Water Charges and fixed service charges.
3. The Tenant made an undated application 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 relied on the documents provided by the Parties together with information in the public domain including Google Images.
6. The Property comprises a two-storey semi-detached house of brick and tile with a pitched roof providing a living room, kitchen and WC on the ground floor and three bedrooms together with a bathroom on the first floor. It benefits from central heating, double glazing, carpets & curtains and white goods.
7. There is a garden to the rear together with a small front garden and parking on the public highway.

The Tenancy

8. The Tenant occupied the Property by virtue of an Assured Shorthold Tenancy that commenced 13 December 2018 and expired on 12 June 2019.
9. The initial rent under this Tenancy was £895 pcm.
10. The Tenant's repair obligations are set out at clause 1.3 which states:

“Keep the interior of the Premises during the Term in as good and clean state of repair, condition and decoration as the Premises are in at the commencement of the Term and make good all damage and breakage’s to the Premises which may occur during the Term (fair wear and tear excepted).”

11. The Tenancy is silent in respect of the Landlord’s repair obligations. However, as set out below, section 11 of the Landlord and Tenant Act 1985 applies.
12. 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

13. 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”

14. 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.”

15. 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.”*

16. 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.”*

17. 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

18. The Tenant set out a number of comments on the Reply Form including:
 - a. Living Room – *“Outer wall has damp problems”*
 - b. Bedroom 1 – *“I have refurbished to a high standard with new floor”*
 - c. Bedroom 2 – *“Needs decorating and a new floor”*

- d. Bedroom 3 – *“Extensive damp problems”*
 - e. Bathroom – *“Needs modernising though new toilet has just been fitted by landlord.”*
19. The Tenant attached a further statement which included photographs of various damp and disrepair issues including a rotten ceiling. This statement commented that *“...I don’t believe the property in its current state is worth what I’m paying for it now.”*
20. With regard to rental evidence, the Tenant provided details of a property to let on Russell Street at £1,450 pcm.

Representations – The Landlord

21. The Landlord submitted a completed Reply Form stating:
- “The property is character Victorian end of terrace, located in prime location of Stony Stratford and has 3 bedrooms. It has been rented for a number of years and would benefit from some decorating. The rental value of £1,600 pcm in good condition, so reasonably is £1,400 currently. I have asked for £1,200, but in view of the appeal, please assess for the full rental value as you deem reasonable. The property has gas CTL HTW, double glazing and is fully landlord compliant.”*
22. The Landlord did not provide any comparable evidence of value for the Tribunal’s consideration.

Determination

23. 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.
24. 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.
25. 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.
26. 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.

27. It does not appear to be disputed that the Property is not up the same standard as properties available on the market and the photographs provided by the Tenant are informative in this regard.
28. The Tribunal considers that the Property would benefit from modernisation and updating but is particularly concerned with the evidence of damp and mould at the Property. Whilst the Tribunal has not been presented with any evidence by a suitably qualified structural/building expert it does appear that there is damage that may have arisen from building defects rather than condensation arising from occupation such that they do not fall within the Tenant's obligations to rectify.
29. The damp and mould would be likely to deter the majority of prospective tenants but the Tribunal is required to assume that someone would be prepared to take the Property albeit on the basis that they would seek to force the Landlord to carry out such repairs in accordance with their statutory obligations pursuant to section 11 of the Landlord and Tenant Act 1985 to the roof, chimney and external walls as would be necessary to prevent further water ingress.
30. The Tribunal notes that the Tenant has referred to the prospective letting of a property in Russell Street at £1,450 pcm and argues that this is a larger property and is in better condition. However, it should also be taken into account that this property is terraced whereas the Property is semi-detached.
31. 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 £1,475 per month if it was free from damp, was modernised throughout and was redecorated.
32. However, it is necessary to adjust to account for the state of the Property as it actually exists and the hassle that a Tenant would have to take on in ensuring that the required repairs are carried out in a timely manner.
33. The Tribunal therefore determines the market rental of the Property to be **£1,100 pcm**. The rent payable may not, therefore, exceed this figure. However, this does not prevent the Landlord from charging a lower figure.
34. This rent is to be effective from 13 **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).