



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

Case reference : **CAM/00MC/MNR/2023/0086**

HMCTS code : **A:BTMMCOURT**

Property : **64 Waldeck Street, Reading, RG1
2RE**

Applicant (Tenant) : **Mr and Mrs Emmett**

Respondent (Landlord) : **Mr Howes**

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 : **11 November 2023**

The form of determination was a telephone hearing described above as **A:BTMMREMOTE**. 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 £1,250 per month effective from 11 November 2023.

Reasons

Background

1. The Landlord served a notice dated 23 May 2023 pursuant to section 13 (2) of the Housing Act 1988 to increase the passing rent from £1,150 per month to £1,500 per month with effect from 2 July 2023.
2. This rent is stated to be exclusive of Council Tax, Water Charges and fixed service charges.
3. The Tenant made an application on 26 June 2023 to the Tribunal in reliance on section 13 (4) of the Housing Act 1988.
4. The Tribunal issued directions on 11 July 2023 inviting the Parties to submit any further representations (including any photographs and details of rentals for similar properties) they wished the Tribunal to consider.
5. A Hearing was arranged to take place on 3 October 2023 following a request by the Tenant. However, as the Landlord did not attend the Hearing, the Tribunal proceeded on the papers.

The Property

6. The Tribunal inspected the Property on 4 September 2023 accompanied by the Tenant.
7. The Property comprises a mid-terraced, two storey house of brick and tile construction providing a hallway, lounge, kitchen and bathroom at ground floor level and three bedrooms at first floor level. There is also a garden to the rear and permit street parking.
8. The Property benefits from central heating, double glazing, carpets, and curtains.
9. The EPC rating for the Property is D and the assessed floor area is 76 sqm.

The Tenancy

10. The Tenant took occupation pursuant to an Assured Shorthold Tenancy commencing 2 January 2021 for a term of 12 months.
11. The initial rent under this Tenancy was £1,150 per month to be paid on the 2nd of each month.

12. The copy lease provided to the Tribunal is barely legible but it appears that the Tenant is required to occupy the Property in a tenant like manner whilst the Landlord maintains the structure and exterior of the Property (including the drains, gutters and external pipes) the installations for the supply of water, gas and electricity and for sanitation including basins, sinks, baths and sanitary conveniences and the installations for space heating and heating water.

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. Examples of a tenant’s failure to comply with the terms of the lease may include, for example, a lack of redecoration.
- 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 their Reply Form and made a number of comments in respect of the state of disrepair at the Property.
- 20. In addition, the Tenant highlighted asking rents as follows:
 - 1. Three-bedroom terraced property at Shaftesbury Road available from 19 May @ £1,300 pcm
 - 2. Three-bedroom terraced property at Hill Street available from 2 May @ £1,375 pcm

3. Three bedroom semi-detached property at Ullswater Drive available @ £1,400 pcm
4. Three bedroom terraced property at Belmont Road available @ £1,200 pcm
5. Three-bedroom end terraced property at Waldeck Street available @ £1,275 pcm

Representations – The Landlord

21. The Landlord has not made any written or oral submissions.

Determination

22. 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.
23. 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.
24. In addition, historic matters between the actual landlord and tenant are not relevant to the rent likely to be offered by a prospective tenant. The Tribunal can therefore only have regard to the Property as it actually exists on the relevant date of the proposed rent review having regard to the statutory assumptions.
25. As set out above, section 14 of the 1988 Act requires the Tribunal to determine the rent at which the Property might reasonably be expected to let with effect from the date specified for commencement of the new rent as set out in the section 13(2) Notice.
26. In effect, the Property is assumed to have been vacated, fully redecorated and be available on the market for occupation by an incoming tenant.
27. It is apparent from the evidence submitted by the Tenant that the Property is not in repair and is consequentially less attractive to the market. In addition, even if the Property was fully modernised and decorated and the garden was in good order, the asking rent of £1,500 pcm is unrealistic.
28. The Tribunal has taken the evidence submitted to it by both Parties into account but also applied its own expertise and knowledge. In this regard, the Tribunal determines the market rental of the Property as at

the effective date to be **£1,250 pcm**. The rent payable may not, therefore, exceed this figure.

29. **However, this does not prevent the Landlord from charging a lower figure.**
30. The Tribunal has received representations in respect of the effective date for the rent increase on the grounds of hardship pursuant to section 14 (7) of the Act. The Tribunal is persuaded by these representations and accordingly determines that the effective date is to be the date of the determination i.e., 11 November 2023.

Name: Peter Roberts FRICS CEnv

Date: 11 November 2023

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).