



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

Case reference : **CAM/26UJ/MNR/2024/0075**

HMCTS code : **V:CVPREMOTE**

Property : **16 Cheshire Drive, Watford,
Hertfordshire, WD25 7GP**

Applicant (Tenant) : **S Drew**

Respondent (Landlord) : **Origin Housing Limited/Origin
Housing 2 Limited**

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 July 2024**

The Hearing was held by means of CVP video conferencing. 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 rent of £231.03 per week effective from 1 April 2024.

Reasons

Background

1. The Landlord served a notice dated 19 February 2024 pursuant to section 13 (2) of the Housing Act 1988 which stated an increase in the passing rent from £214.51 per week to £230.03 per week with effect from 1 April 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 29 March 2024 in reliance on section 13 (4) of the Housing Act 1988.

The Property

4. The Tribunal has relied upon the Parties' representations and Google Images.
5. The Property comprises an end-terraced two storey house of brick and tile construction providing lounge, kitchen two bedrooms and a bathroom one single bedroom together with a front and rear garden. There is on-street parking, central heating and double glazing.

The Tenancy

6. The Property was let pursuant to a weekly periodic Assured Tenancy dated 16 August 2019 at an initial rent of £189.73 per week.
7. It is stated at clause 5(a) of the Lease that the rent “...includes a fixed service charge.” However, paragraph 5 of the Landlord's section 13 (2) Notice states that the quoted rent of £231.03 per week excludes any service charge. In the absence of any evidence or challenge to the contrary the Tribunal has relied upon the Landlord's Notice as being accurate.
8. Paragraph 2 of the Lease states that the Landlord agrees:

“To keep in repair, the structure and exterior of the Premises including:
 - i) *Drains, gutters and external pipes;*

- ii) *The roof, but not including any aerial or satellite equipment erected other than by the landlord;*
- iii) *Outside walls, outside doors, windowsills, window catches, sash cords and window frames, door and window furniture, including necessary external painting and decorating;*
- iv) *Internal walls, floors and ceiling, doors, door frames, door hinges, door furniture and skirting boards but not including internal painting and decoration, unless in sheltered accommodation;*
- v) *Chimneys, chimney stacks and flues but not including sweeping;*
- vi) *Pathways, steps or other means of access;*
- vii) *Plasterwork;*
- viii) *Integral garages and stores;*
- ix) *Boundary walls and fences.”*

9. In addition, clause 3 provides that the Landlord will:

“...keep in repair and proper working order any installations provided by the Landlord for space heating, water heating and sanitation and for the supply of water, gas and electricity, including:

- i) *Basins, sinks, baths, showers, toilets, flushing systems and waste pipes;*
- ii) *Electric wiring including sockets and switches, gas pipes and water pipes;*
- iii) *Water heaters, fireplaces, fitted fires and central heating installations.”*

10. Clause 13 provides that Tenant will:

“...keep the interior of the Premises in as good and clean condition and to decorate all internal parts of the Premises as frequently as is necessary to keep them in good decorative order.”

11. The Tenant is also subject to the terms of clauses 16 and 17 which refer to minor repairs and an obligation to promptly report any disrepair or defect for which the Landlord is responsible.

The Law

12. 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”

13. Section 14 (1) 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:

- *“having the same periods as those of the tenancy to which the notice relates;*
- *which begins at the beginning of the new period specified in the notice;*
- *the terms of which (other than relating to the amount of rent) are the same as those of the existing tenancy.”*

14. Section 14 (2) of the 1988 Act requires the Tribunal to disregard:

- *“Any effect on the rent attributable to the granting of a tenancy to a sitting tenant;*
- *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;*
- *Any reduction in the value of the dwelling-house attributable to a failure by the tenant to comply with any terms of the tenancy.”*

15. Examples of a tenant’s failure to comply with the terms of the lease may include, for example, a lack of redecoration.

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’s written representation referred to the recent development at 53 to 55 Cheshire Drive and advised that current rents for 1-bedroom flats are £124.47 per week compared to advertised rates as at 2021 for the 1-bedroom flats at £156 per week and 2-bedroom flats at £196.96 per week.
- 19. The Tenant also advised that 14 Cheshire Drive is let at £159 per week with effect from 1 April 2024 and was previously let at £148 per week (i.e., an increase of 7.7%).
- 20. The Tenant also raised various issues concerning outstanding disrepair and a lack of attention by the Landlord to such matters.
- 21. The Tenant advised the Tribunal that they had installed the carpet and curtains and sourced the white goods.

Representations – The Landlord

- 22. The Landlord did not submit any evidence.

Determination

- 23. In determining the market rent in respect of the Property, 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. Similarly, the Tribunal is also unable to take into account the Tenant's ability to pay the rent in assessing the amount to be paid or the Landlord's need to achieve a certain income in order to, for example, cover their mortgage payments.
25. 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 exists on the relevant date of the proposed rent review having regard to the statutory assumptions.
26. 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.
27. The Tenant referred to rentals paid in respect of flats in the new development opposite the Property. However, these are affordable rent properties and, as such, the rents payable are of limited assistance in assessing market value as they will have been discounted.
28. Similarly, the fact that the rent in respect of 14 Cheshire Drive has only increased by 7.7% strongly suggests that the Landlord of that property is also a Registered Provider and therefore subject to the Regulator of Social Housing Rent Standards.
29. It is therefore the case that neither the Tenant or Landlord provided evidence of current market rentals to assist in the exercise required by section 14 of the Act and the Tribunal has therefore had to rely upon its own knowledge and expertise in assessing the rent.
30. However, the Landlord is a Registered Provider of Social Housing and is therefore subject to Government Regulations that cap any increase in rent by CPI plus 1%. In this regard, the total increase for the year 2024/25 cannot exceed 7.7%. Once this is applied to the rent passing immediately before the effective date of £214.51 per week the resultant rent is £231.03 per week. It is therefore the case that the Landlord has applied the maximum rental increase permissible.
31. Any assessment by the Tribunal of Market Rent is therefore only relevant if the assessed Market Rent is less than the rent that the Landlord is permitted to charge.

32. In this regard, the proposed rent of £231.03 per week equates to £1,001.13 per month. This is well below market rents achievable on comparable property let on standard Assured Shorthold Tenancies by private landlords and the Tribunal is satisfied that the rent contended for by the Landlord is significantly below the market rent that would apply in the absence of the Landlord being subject to the capping regulations as set out by the Regulator.
33. The rent payable by other tenants of social housing provided by Registered Providers is not relevant to this matter hence whilst the Tribunal notes the clear differences in rent being paid by the Tenant relative to their neighbour this is not a matter than can be taken into account not least as the Tribunal has not been provided with full details as to dates at which those leases commenced and an explanation as to how the rent(s) have been calculated.
34. For clarity, this assessment ignores the Tenant's improvements to the Property.
35. The Tribunal therefore directs that the rent shall be increased from £214.51 per week to £231.03 with effect from 1 April 2024.

Name: Peter Roberts FRICS CEnv

Date: 5 July 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 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).