



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

Case reference : **CAM/26UK/MNR/2024/0051**

HMCTS code : **V:CVPREMOTE**

Property : **23 Gossamers, Watford,
Hertfordshire, WD25 9AW**

Applicant (Tenant) : **J Croft**

Respondent (Landlord) : **Watford Community Housing Trust**

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 £152.17 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 £141.29 per week to £152.17 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 5 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, sitting room, three bedrooms and bathroom together with a front and side garden. There is on-street parking, central heating and double glazing but curtains and carpets were sourced by the Tenant.

The Tenancy

6. The Property was originally let on an Assured Shorthold Tenancy dated 12 September 1977 which converted to a weekly assured tenancy prior to being assigned to the Tenant on 2 March 2016. The rent specified at paragraph II of that assignment was £133.13.
7. Paragraph 1.5 of the Standard Terms and Conditions states:

“We may increase or decrease the net rent on the first Monday in April each year by the maximum set by the Regulator from time to time. At the tenancy start date this is minus 1%. If the Regulator does not sent any net rent change we may increase the net rent by no more that the increase in the Retail Prices Index (RPI) plus 5%. If either RPI or the basis on which it is calculated or published is altered to a significant extent (as to which our decision will be final), then a different index other than RPI will be chosen by us...”

8. The effect of this provision is that the Landlord is unable to increase the rent beyond the amount that would result from the application of the prescribed formula to the rent passing immediately prior to the review date irrespective as to what the actual Market Rent may be.
9. Clause 2.3 provides that the Landlord agrees to:
- “...maintain the structure and exterior of your Home in repair including... ..(c) internal walls, plasterwork, doors and door frames but not internal painting and decorating if you must carry out these repairs under clauses 3.28 to 3.31...”*
10. Clauses 3.28 to 3.29 provides that the Tenant agrees to:
- “...keep the interior at your Home in good and clean condition and to decorate all internal parts of your Home as frequently as is necessary to keep them in reasonable decorative order. You shall not use textured coating (artexing) on walls and ceilings. You agree not to apply boarding’s (sic) such as panelling or polystyrene tiles without first seeking our written consent.*
- You agree that if you install laminate flooring and we need to carry out a repair that requires us to take to (sic) up the flooring, we will not be responsible for replacing or repairing any damage to the laminate flooring.*
- This means you should take reasonable care of your Home.”*
11. Clause 4.29 confirms in respect of Tenant’s improvements that:
- “If you lawfully make an improvement under your right to do so in this Agreement and have paid the whole or part of the costs of that improvement, we will not, at any time you or your successor is a tenant of your Home, increase the Rent on account of that part of the improvements for which you have paid.”*

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 set out that the Landlord had previously increased the rent “...by around £10.00 per week to £141.29 and this year by a further £10.88 per week to £152.17... ...This increase is nearly double the current inflation rate which currently sits at 4.2% the rent increase is around 7.7%”
19. The Tenant also raised various maintenance and repair issues concluding:
- “How can they justify increasing the rent when they don’t provide proper services to their tenants?”*
20. The Tribunal was also provided with an email dated 11 May 2024 from the Tenant which set out various concerns with repair issues.
21. The Tenant expanded on these points during the Hearing and raised various issues of disrepair as examples of the Landlord allegedly not complying with their repair obligations.

Representations – The Landlord

22. The Landlord submitted written Submissions and Respondent’s Reply to Applicant’s Submissions.
23. These submissions asserted that the Property “...is in a decent condition to justify the level of rent.”
24. The Landlord was represented by Counsel at the Hearing who explained that the Regulator of Social Housing has prescribed that Registered Providers can only increase rents to a maximum of CPI plus 1%. In this regard, the prescribed total increase for 2024 to 2024 cannot exceed 7.7%.

Determination

25. 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.

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. 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.
27. 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.
28. The Tribunal does not, therefore, take into account historic matters relating to the Property and/or surrounding locality which do not exist as at the effective date (i.e., 1 April 2024).
29. 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.
30. Neither the Tenant or Landlord provided evidence of current market rentals and the Tribunal has therefore had to rely upon its own knowledge and expertise in assessing the rent.
31. However, as set out Counsel for the Landlord, the rent actually payable cannot, by virtue of the statute of the Landlord, exceed the current rent increased by CPI plus 1% as prescribed by the Regulator of Social Housing. This limit overrides the provisions set out at paragraph 1.5 of the Standard Terms and Conditions to the Tenancy as set out above.
32. Any assessment by the Tribunal of market rent pursuant to Section 14 of the Act is therefore only relevant in practical terms if the resultant rent is less than the maximum rent that the Landlord is permitted to charge by the Regulator.
33. In this regard, the passing rent is £141.29 per week and the permitted increase is 7.7%. The revised maximum rent is therefore £152.17 per week. This revised rent equates to £659.50 per month.
34. This rent is well below market rents achievable on comparable property let on standard Assured Shorthold Tenancies by private landlords. Furthermore, the market rent of the Property as it actually exists assuming that the Tenant has complied in full with their covenants but

disregarding the Tenant's improvements, is significantly in excess of the calculated maximum rent. The rent contended for is therefore below the rent that would otherwise apply in the absence of the rent controls as set out above.

35. The Tribunal therefore directs that the rent shall be increased from £141.29 per week to £152.17 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).