



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

Case Reference : BIR/00CN/MNR/2024/0156

Property : Apartment 28, 154 Bell Barn Road, Birmingham, B15 2BB

Applicant : Yusuf Adde

Respondent : Citizen Housing Group Limited

Type of Application : Appeal against a Notice proposing a new rent under an Assured Periodic Tenancy under section 13(4) of the Housing Act 1988

Tribunal Members : I.D. Humphries B.Sc.(Est.Man.) FRICS
M. Alexander B.Sc.(Hons.) MRICS

Date and Venue of Hearing : 23 September 2024 by video platform

Date of Decision : 23 September 2024

REASONS FOR DECISION

- 1 The rent is determined at £185.00 (One Hundred and Eighty Five Pounds) per week including £26.10 (Twenty Six Pounds Ten Pence) per week variable service charge with effect from 24 June 2024.

REASONS

Introduction

- 2 The tenant, Yusuf Adde, holds a monthly assured tenancy of Apartment 28, 154 Bell Barn Road, Birmingham, B15 2BB that commenced 10 April 2006.
- 3 On 24 May 2024, the landlord sent Notice of rent increase to the tenant under section 13(2) of The Housing Act 1988, proposing to increase the rent from £108.80 pw to £117.17 pw on 24 June 2024. This did not include any Council Tax, water rates or service charge although a variable service charge of £26.10 pw was payable in addition for provision of estate services such as cleaning, communal lighting and security. This brought the total to £143.27 pw.
- 4 On 17 June 2024 the tenant applied to the First-tier Tribunal (Property Chamber) to determine the rent. On receipt of the application, the Tribunal listed the case as 'Bell Barn Lane' in error, but the papers all related to 'Bell Barn Road' which is the correct address and the Decision relates to the correct address.
- 5 A video Hearing was held on 23 September 2024, following which, the Tribunal determined the rent at £185.00 pw to include the variable service charge of £26.10 pw and sent the Decision to the parties.
- 6 On 7 October 2024 the tenant requested Reasons.

The Law

- 7 Section 14 of The Housing Act 1988 ('the Act') states:

'(1) Where, under subsection (4)(a) of section 13 above, a tenant refers to a rent assessment committee a notice under subsection (2) of that section, the committee shall determine the rent at which, subject to subsections (2) and (4) below, the committee consider that the dwelling-house concerned might reasonably be expected to be let in the open market by a willing landlord under an assured tenancy -

- (a) which is a periodic tenancy 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 the rent) are the same as those of the tenancy to which the notice relates;...'*

'(2) In making a determination under this section, there shall be disregarded –

- (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 carried out by a person who at the time it was carried out was the tenant, if the improvement-*
 - (i) was carried out otherwise than in pursuance of an obligation to the immediate landlord ...*

- 8 The jurisdiction of the Rent Assessment Committee was transferred to the First-tier Tribunal (Property Chamber) on 1 July 2013.
- 9 The tenancy agreement submitted by the tenant indicated that the property had been let by Optima Community Association (since assigned to Citizen Housing Group Ltd.) to Yusuf Abdulkadir Adde for a term of one week from 10 April 2006 to continue weekly thereafter, at an initial rent of £68.29 pw plus £21.17 pw service charge. The rent had been increased since then and by the date of application had reached £108.80 pw plus service charge.

Facts Found

- 10 The Tribunal did not inspect the property and reached its Decision based on information provided with the application and views of the property on Google Streetview.
- 11 The property is a third floor flat in a modern, purpose built block close to the west side of Birmingham city centre. It is in an area off Lee Bank Middleway between Bristol Road and Five Ways that has been substantially redeveloped in the last 20 years with similar residential blocks. It is conveniently located for access to the city centre, shopping and transport facilities.
- 12 From the application form sent to the Tribunal, the accommodation comprises a living room, two bedrooms and bathroom.
- 13 A video Hearing was held on 23 September attended by Mr Yusuf, the Applicant, and Mr Cosnett for the Respondent.

Submissions

- 14 Applicant
Mr Yusuf said the property was in a block of social housing that affected its value and in his opinion the market value was no more than £126 pw including service charge.

Mr Yusuf provided no rental evidence to support his case.

- 15 Respondent
Mr Cosnett said the landlord had asked for £143.27 pw because this was the most they were entitled to charge based on Government policy which limited rent increases. They were unable to increase beyond the cap each year but in his opinion, if the flat had been let in the open market its value would have been far higher than this. He confirmed the landlord was responsible for providing the estate services, the costs of which were recovered via the service charge.

Decision

- 16 The Tribunal applied its own general knowledge of market rents in the area and found that if it had been available to let in the open market in June 2024 its rental value would have been substantially higher than the rent sought by the landlord. Furthermore, had it not been let for social housing, the rents in the development would have been higher again due to the accommodation and location within reach of all local facilities. However, the social housing status reduced its value and the Tribunal found this to be £185 pw on the terms of the tenancy agreement under section 14 of the Housing Act 1988. This was more than the

landlord was asking but the Tribunal had a duty to assess the market rent in accordance with the Act and was aware the rent increase was capped by Government limits.

- 17 Accordingly, the Tribunal found the rental value in accordance with section 14 of the Housing Act 1988 to be £185.00 (One Hundred and Eighty Five Pounds) per week including £26.10 (Twenty Six Pounds Ten Pence) per week variable service charge with effect from the date in the landlord's Notice, 24 June 2024.

I.D. Humphries B.Sc.(Est.Man.) FRICS
Chairman

Appeal

In accordance with section 11 of the Tribunals, Courts and Enforcement Act 2007 and rule 21 of the Tribunal Procedure (Upper Tribunal) (Lands Chamber) Rules 2010, the Tenant / respondent may make further application for permission to appeal to the Upper Tribunal (Lands Chamber) on a point of law only. Such application must be made in writing and received by the Upper Tribunal (Lands Chamber) no later than 28 days after the date on which the First-tier Tribunal sent notice of this refusal to the party applying for permission to appeal. Where possible, you should send your further application for permission to appeal by email to Lands@justice.gov.uk, as this will enable the Upper Tribunal (Lands Chamber) to deal with it more efficiently. Alternatively, the Upper Tribunal (Lands Chamber) may be contacted at: 5th Floor, Rolls Building, 7 Rolls Buildings, Fetter Lane, London EC4A 1NL (tel: 020 7612 9710).