



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

Case Reference : **MAN/00DA/MNR/2023/0436**

Property : **Oakeley, Dewsbury Road, Tingley, Wakefield,
WF3 1LE**

Applicant tenant : **Ms Donna Furness**

**Respondent
landlord** : **Mr Brandon Fox**

**Respondent
landlord's
representative** : **Sequence UK Limited.**

Application : **Market Rent, section 13 and 14 of the Housing
Act 1988**

Tribunal Members : **Judge C. P. Tonge, LLB, BA
Mrs S. A. Kendall BSc, MRICS**

Date of Decision : **12 January 2024**

DECISION

Background

1. Ms Donna Furness "the tenant" of Oakeley, Dewsbury Road, Tingley, Wakefield, WF3 1LE "the property", referred to the Tribunal a Notice of Increase of Rent, dated 11 October 2023, served by Sequence UK Limited "the landlord", under section 13 of the Housing Act 1988 "the Act". The application to the Tribunal, by the tenant, is dated 23 November 2023.
2. The landlord's notice proposes a rent of £800 per calendar month, to take effect from 9 December 2023. It is in the prescribed form and is accompanied by a guidance note for tenants. The tenancy commenced on 9 December 2019.
3. The current rent is £675 per calendar month.
4. The tenant requested a hearing, authorising her mother, Christina Furness, to represent the tenant at the hearing in the absence of the tenant.
5. The tenant made representations on the application form and in a letter, dated 23 November 2023 entitled disrepair issues, listing the disrepair issues. The landlord chose not to make any representations. All of these documents have been copied to the other party.
6. An inspection of the property and hearing on the Tribunal's video hearing platform were arranged for 12 January 2024. The parties to the case were informed of these arrangements by letters dated 20 December 2023.

The Law

The Tribunal must first determine that the Landlord's Notice under section 13(2) of "the Act" satisfies the requirements of that section and is validly served.

Section 13 of the Act permits the Landlord, or his agent, under a periodic tenancy of the type specified in section 13(1) to serve a notice in the prescribed form on the tenant proposing a rent increase. A valid notice will have the effect of increasing the rent on the date specified in the notice unless before that date the tenant refers the notice under section 13(4) to the relevant Tribunal for a determination of the rent.

To be valid, the notice must not only be in the prescribed form but must also comply with the requirements set out in section 13(2) and (3) of the Act as to notice periods and propose a new rent to take effect at the beginning of a new period of the tenancy.

The prescribed notice is that contained in the Assured Tenancies and Agricultural Occupancies (Forms) Regulations 1997 (SI 1997 / 194) as amended by the Assured Tenancies and Agricultural Occupancies (Forms) (Amendment) (England) Regulations 2003 (SI 2003 / 260).

Section 14 of the Act requires the Tribunal to determine the rent at which it considers that the subject property might reasonably be expected to be let on the open market by a willing Landlord under an assured tenancy.

In so doing the Tribunal is required by section 14(1) of the Act to ignore the effect on the rental value of the property of any relevant improvements made by the tenant, as defined in section 14(2).

Section 14(4) of the Act provides that for the purposes of section 14 rent includes among other things any sums payable to the Landlord by the tenant in respect of council tax, but it does not include a service charge within the meaning of section 18 of the Landlord and Tenant Act 1985 where the amount of service charge payable by the tenant is variable from time to time according to changes in relevant costs. However, it does include a fixed service charge.

The Inspection

7. The Tribunal commenced its inspection of the property at 12.30 pm on 12 January 2024, this being the time that had been notified to the parties in the letters of 20 December 2023 . The tenant was present. The landlord was not present.
8. The property is a semi-detached house reached from the street down a path that is separated from the footpath by a dry stone wall and leads to other houses in the same row of buildings. The property has a large front garden that accommodates a swing and an outside table with bench seats. The rear area is small, accommodating a dog kennel and has a gate that leads out to a ginnel that is wide enough to permit motor vehicles to be driven along it. The property does not include any off road parking. There is a path at the side of the house, but a barrier has been put across the path to prevent the disabled child of the tenant from using the path.
9. The property has a living room with a patch of black mould on the exterior wall under the window. There is a solid fuel fire which the tenant has been told not to use. The room has the central heating thermostat on a wall, but this does not work so that the tenant can only activate the central heating by going to the wall mounted gas boiler that is in the utility room and switching it on. Thereafter, control of the level of heat inside the property is by again switching the central heating boiler off and on. This room has a central heating radiator.

10. The kitchen is fully fitted, that includes the landlord's oven and gas hob. There are water marks on the ceiling from a prior leak of water. The sink has a loose wastewater pipe underneath it that is taped up with a makeshift repair that has not been effective so that there is water dripping into a metal cooking tray that the tenant has placed in this position to prevent flooding. The kitchen floor is covered with 30 ceramic tiles 24 of which are cracked so that the tenant has had to use rugs to protect her child from the cracked tiles.
11. There is a walk in pantry off the kitchen housing the wall mounted Vokera gas boiler, a washing machine and a clothes dryer. There is a vent in the a wall that should accommodate a clothes dryer vent pipe to go through it, discharging moist air outside the property. However, it is not possible to use the vent because it has plumbing pipes fixed over it so the moisture laden air from the clothes dryer is discharged into the utility room. There is no extractor fan. A wall of the utility room has perished plaster and is damp from the lack of ventilation.
12. The main domestic water drain is blocked so that effluent from sinks and the toilet will not be carried away from the property, the result of this is that the house smells of human waste and the tenant has to use her mother's home for washing and toilet facilities, when she is able to do so during the day. The landlord has sent a plumber out to try to repair this fault but the plumber could not find the main drain manhole cover and told the tenant that as a result he could not properly investigate the problem. The plumber made a hole in the soil pipe that he had access to and cleared some toilet paper that was stuck there. The tenant was informed that this was only a temporary "repair" and the problem would need further investigation to resolve it. There has not been any further investigation and it appears to be the case that the landlord now takes the view that the problem has been caused by the tenant and it is therefore up to the tenant to resolve this issue.
13. The bathroom has a toilet that cannot be used. The sink has a tap that is so loose that it hangs to one side and cannot be used. There is a bath with a shower head that runs from the bath taps. The bath has a shower screen. The ceiling shows obvious signs of damp with the artex falling off. There is black mould on the bathroom wall.
14. There are three bedrooms, one of which is a single bedroom, sometimes described as a box room. The main bedroom has a solid fuel fireplace that is not used. The bedrooms have central heating radiators. Windows are PVCu double glazed. The roof of the property is tiled and has tiles that are uneven such that the roof needs to be inspected and repaired if that is found to be necessary.

The hearing

15. The hearing commenced at 2.30 pm on 12 January 2024, that being the time notified to the parties in the letter of 20 December 2023, by use of the tribunal's video platform. The tenant's mother Christina Furness being present. The landlord chose not to be present.
16. Ms Furness explained that when the house had been viewed prior to her daughter taking the lease in 2019, a great many of the problems that now exist had existed. The Landlord had promised to repair all of those problems and the lease was signed. The tenant had no where else to live, having surrendered her prior tenancy, she moved into the property to find that the promised work had not been done. The tenant and the witness had decorated the property and had paid for some minor works to be done. A long email had been sent to the agent of the landlord, W H Brown, complaining and attaching photographs of the broken tiles in the kitchen. These broken tiles had caused significant problems because the kitchen smelt of cat urine and the witness had worried that cat urine might have soaked in between the tiles. Strong cleaning substances had to be used and it took some time to eradicate the smell.
17. Recently, the landlord had agreed to have the central heating repaired and a man had attended who had not been able to fix the central heating timer/thermostat. He advised that the central heating boiler be switched on and off at the boiler.
18. Ms Furness gave evidence about the domestic wastewater system and work done to try to resolve the problem, assuring the Tribunal that in so far as she knew her daughter had not put anything down the toilet that should not go down it. The problem had got worse again and the toilet was at present unusable. The witness added that this matter has been brought to the attention of the local authority. The local authority has sent an inspector out and a notice has been served upon the landlord requiring him to repair the drains, kitchen floor tiles, kitchen sink waste pipe, bathroom tap, central heating and ventilation in the bathroom by 16 January 2024.
19. The landlord has notified the tenant that she is to be served with a notice requiring her to quit the property.
20. Ms Furness stated that her daughter visits her regularly to use showers and her toilet, sometimes staying overnight. She agrees that if the property were in good repair, then it would be worth a rent of £800, but the property is not in good repair.

Determination

21. The notice of increase of rent is a valid notice.
22. Neither party to the case has suggested any comparable properties to the Tribunal. The Tribunal notes that the landlord has requested a rent of £800 per calendar month and that Christina Furness suggests that if the property were in good repair, it could be rented at £800 per calendar month. This has not been challenged by the landlord because the landlord did not attend the hearing to hear that evidence be given. As such the Tribunal determines that the open market rent for this property if it were in good condition would be £800 per calendar month.
23. The Tribunal determines that it is wrong of the landlord to decide that the blockage of the wastewater drainage pipe is the responsibility of the tenant to repair. The problem needs further investigation to find the real reason for the blockage. This requires that the manhole for this system be found. The landlord should locate this manhole and instruct a competent engineer to investigate and clear the blockage as a permanent repair.
24. This property is not in the condition expected of a modern market let and the market rent must therefore be adjusted, making deductions to allow for the faults that the Tribunal determines to be such as to reduce that rent.
25. The Tribunal makes a deduction of £30 per calendar month due to the cracked ceramic floor tiles in the kitchen.
26. The Tribunal makes a deduction of £30 per calendar month due to the faulty and dripping waste pipe under the kitchen sink.
27. The Tribunal makes a deduction of £10 per calendar month due to the black mould in the lounge under the front window.
28. The Tribunal makes a deduction of £30 per calendar month due to the pipes blocking the dryer vent causing damp air to be discharged into that room without providing an extractor fan and the fact there is perished plaster on the wall.
29. The Tribunal makes a deduction of £10 per calendar month due to the loose tap on the wash basin in the bathroom.
30. The Tribunal makes a deduction of £10 per calendar month due to the black mould in the bathroom.
31. The Tribunal makes a deduction of £50 per calendar month due to the fact that the central heating system is not working properly.

32. The Tribunal makes a deduction of £150 per calendar month due to the fact that waste domestic water is not being carried away from the property because the drain is blocked. In particular this makes the toilet at the property unusable. The Tribunal had to give serious consideration as to whether this fault makes the property unfit for human habitation, but since the local authority has chosen to require that repairs be made, rather than prohibiting the use of the property we determine that there be a substantial deduction from the rental value.
33. Other issues were raised, but the above described features are the only features that the Tribunal determines to be such as to reduce the market rent. A total of £320 in deductions. The Tribunal therefore determines that the market rent for this property is £480 per calendar month.

The Decision

34. The Tribunal decides the rent at which it considers that the property might reasonably be expected to be let on the open market by a willing landlord under an assured tenancy is £480 per calendar month and this takes effect from 9 December 2023.
35. Appeal on a point of law is to the Upper Tribunal. There is no appeal against the factual calculation of the market rent. Any Party wishing to appeal against this decision has 28 days to deliver to this First-tier Tribunal an application for permission to appeal, stating the grounds of appeal, the particulars of those grounds, the paragraph numbers of the decision that are challenged and the result that the appellant seeks in raising the appeal.

Judge Tonge

17 January 2024