



FIRST-TIER TRIBUNAL
PROPERTY CHAMBER (RESIDENTIAL
PROPERTY)

Case Reference : MAN/00BP/MNR/2024/0044

Property : 120 Chadderton Way, Oldham OL1 2EW

Applicant : Husnara Begum

Representative : Maya Solicitors

Respondent : Ayesha Khanom

Representative : Daniel & Baker Solicitors

Type of Application : An application to determine a market rent pursuant to s.14 Housing Act 1988

Tribunal Members : Tribunal Judge L. F. McLean
Tribunal Member Mr A. Hossain MRICS

Date of Decision : 12th July 2024

Date of Reasons : 26th September 2024

DECISION

Decision

1. The Tribunal determines that the market rent payable for 120 Chadderton Way, Oldham OL1 2EW ("the Property"), under the statutory periodic tenancy arising on 10th April 2019, is £450 per month.
2. The Tribunal directs that the new rent is effective from 10th March 2024.

Application

3. The Applicant is the tenant of the Property and the Respondent is the landlord.
4. By a notice dated 30th January 2024 ("the Notice"), the Respondent notified the Applicant that the rent for the Property would be increased from £450.00 per month to £900.00 per month with effect from 10th March 2024.
5. By an application dated 8th February 2024, the Applicant referred the Notice to the Tribunal for a determination of the market rent for the Property, pursuant to Section 14 of the Housing Act 1988.
6. An inspection took place on 12th July 2024. Neither party requested a hearing.

The Inspection

7. The members of the Tribunal attended at the Property at approximately 12.30pm by prior appointment. The Applicant gave permission for the Tribunal members to enter the Property. Soon afterwards, the Respondent attended. Despite both parties having legal representation, neither firm of solicitors attended. The Applicant was not willing to let the Respondent enter the Property. Despite encouragement from the Tribunal members to allow entry, the Applicant maintained her stance, as was her common law legal right. The Chair of the Tribunal therefore provided a verbal summary of the members' observations to the Respondent after the inspection concluded.
8. The Property is a brick-built mid-terraced house, which appears to date from the late 19th or early 20th Century. It comprises two bedrooms, living room and kitchen together with a back yard area.
9. The Property benefits from a gas hot water and central heating system provided by the Respondent. A fridge-freezer was provided by a previous landlord. The tenant had supplied her own washing machine. The kitchen also included an integrated electric cooker and hob. Carpets throughout the Property were also provided by the previous landlord but were worn and in poor condition. The windows are double glazed with uPVC frames. The bathroom included an electric shower over a bath.
10. Severe landlord's neglect was visible throughout the interior of the Property. Black mould was present in every single room.

11. This began with the entrance porch, in which the plasterwork was damaged by damp and there was black mould all over the internal door. There were stains in the corner from water ingress, and evidence of structural cracking of the party wall with number 118.
12. In the kitchen, there was significant water damage to the wooden cupboards and units near to the washbasin, where the base unit had rotted away to the point of being beyond serviceable repair and needing complete replacement. The interior walls were damp and there was black mould present on the wall decorations. There were stains on the ceiling from water ingress. A water leak appeared to have been repaired recently.
13. The walls of the second bedroom were damp with black mould. Repairs to the plasterwork and redecoration of the ceiling were both incomplete.
14. In the upstairs landing, the wallpaper was peeling off due to damp moisture.
15. In the upstairs bathroom, there was a lot of black mould on the walls. The extractor fan was broken or non-existent, which could also lead to draughts and water ingress.
16. In the main bedroom, the decorative paintwork was peeling off the inside of the external wall and the party wall with number 122, and there was black mould underneath the windowsill.
17. Externally, the members of the Tribunal observed that the back yard was not usable due to the Respondent having commissioned building works to create an extension to the building. The building works were incomplete, with the concrete foundation screed having been laid and breeze block walls being partially constructed with pipes and cables dangling or running over the yard, in such a hazardous state that the yard could not be used for any storage or recreational purposes. This also amounted to a fire hazard on account of the restricted exit through the kitchen door. The Applicant stated that the works had been undertaken without her consent. The Tribunal members also noted that the roofline guttering was defective at the back of the Property and that water had been running down the outside of the rear elevation, with green algae growing on the brickwork below.

Written Submissions

18. The Tribunal received written submissions from the Applicant's solicitors. These rehearsed in detail (with supporting photographic evidence) the extensive allegations of at least 7 separate defects within the Property, which the Tribunal members had also observed. The Applicant's solicitors asserted that the extent of the disrepair was so severe that the Property was unfit for human habitation, within the meaning of s.9A Landlord and Tenant Act 1985. The Applicant's solicitors also averred that the Respondent had failed to conduct repairs within a reasonable timeframe of being given notice of the defects, or to any reasonable standard, or not at all. The Applicant had attempted to clean the mould away but it had habitually reappeared. The

submissions also referred to the Council having served an Abatement Notice upon the Respondent (pursuant to the provisions of the Housing Act 2004) on 25th March 2024, which had not been complied with. The Applicant's solicitors alleged that the Applicant and members of her household had suffered physical and mental ill health and stress due to the condition of the Property.

19. The Respondent's solicitors also provided written submissions, but these were weak and imprecise in comparison to those of the Applicant's solicitors. There was a general assertion that all repairs had been undertaken within a reasonable time of being notified of the disrepair. These assertions were wholly unsupported by any meaningful evidence, and tended to run contrary to the Tribunal members' observations during the inspection of the Property. There was adduced a copy of an email – dated 16th May 2023 – from the Respondent's contractors stating (in rather vague terms) that they had been unable to gain entry to the Property to carry out works. The only other purported explanation for failure to carry out repairs was a single alleged incident on 17th May 2024, in which the Respondent had claimed that her contractors were threatened by the Applicant and had been required to leave the premises. This latter allegation was not substantiated by any direct evidence and was only supported through extremely brief hearsay evidence, consisting of a single short email from her solicitors to the Council the following week.
20. The Respondent's submissions appeared to be much more focused on the comparable market rents than upon the appalling condition of the Property. The comparables referred to (discussed in more detail below) were broadly helpful, but somewhat on the high side when taking the features of the Property into account.

The Law

21. When determining the market rent under Section 14 of the Act, the Tribunal shall determine the rent at which it considers 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; and
 - d. in respect of which the same notices, if any, have been given under any of Grounds 1 to 5 of Schedule 2 to the Act, as have been given (or have effect as if given) in relation to the tenancy to which the notice relates.
22. The Tribunal must also 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 relevant tenant's improvements; and

- 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.
23. Accordingly, the Tribunal must consider the rental value of the Property in its current condition insofar as landlord's neglect is concerned, but disregarding any reductions attributable to the tenant's breach of tenancy.
24. The calculation is carried out taking into consideration the condition of the Property as at the date of the inspection, even if some time has passed since the effective date of the Notice and even if repairs or improvements have been undertaken by the landlord since then.

Market rent

25. The Applicant did not provide any evidence of comparable market rents.
26. The Tribunal considered that the Respondent's comparables of Dixon Street in Oldham OL4 (£900 pcm), Walter Scott Street in Oldham OL2 (£895 pcm) and Kimberley Street in Oldham OL8 (£1050 pcm) were not unreasonable, albeit that the photographs of those properties suggested that they had been refurbished internally to a considerably higher standard than the Property.
27. The members of the Tribunal also relied on their own expertise and general knowledge and awareness of the lettings market in order to reach a view on the type of rental value that a dwelling like the Property might achieve in that locality. Other similar comparables which were publicly available included:-
- 2 bedroomed terraced house – Melling Avenue, Chadderton - £900pcm
 - 2 bedroomed terraced house – Burnley Lane, Chadderton - £925pcm
 - 2 bedroomed terraced house – Water Street OL2 - £900pcm

Tenant's Improvements

28. The Applicant had not undertaken any notable improvements to the Property.

White goods and Furnishings

29. Most of the white goods were supplied by the landlord except for the washing machine. All furnishings belong to the tenant.

Landlord's Neglect

30. The members of the Tribunal found that the Property was in a truly shocking state of dilapidation throughout, as referred to above. The Tribunal concluded that there was a *prima facie* case of the Respondent having been guilty of severe landlord's neglect. If any repairs were undertaken by the landlord, they were incomplete or ineffective.
31. The Tribunal did not consider that the evidence led by the Respondent proved that the tenant was in breach of the tenancy agreement in relation to granting

access for repairs. Any evidence of access being refused was weak, sporadic and indirect. There was no evidence or even any suggestion that the Respondent had taken any further steps to secure access for repairs, such as seeking injunctive relief from the County Court. This stands in stark contrast to her apparent willingness to commission an extension to the rear of the Property without her tenant's consent. The Applicant's solicitors, however, had asserted that their client was left distressed by the appalling condition of the Property. The Tribunal found that assertion to be highly credible in light of its very poor condition, and it was not challenged in the Respondent's written submissions in any event (nor had she requested a hearing at which the Applicant's evidence could be so challenged). The Tribunal cannot think why it would be in the Applicant's interests willingly to fail to allow access, in these circumstances.

Service Charge

32. There is no service charge applicable to the tenancy of the Property.

Calculation of market rent

33. In determining the open market rent for the Property, and taking into account the evidence offered by the parties, the Tribunal determined that the open market rent for the Property in good condition and with modern facilities would be £780.00 per month. The Tribunal took into account the age, character and location of the Property, when reaching its decision as to the likely market rent. In particular, the starting point had been £900.00 pcm, but from that figure the Tribunal made a deduction of £75.00 for the absence of a usable back yard space, and a further £45.00 for additional white goods and furnishings that a landlord would be expected to provide in order to achieve the optimal rent.

34. In accordance with Section 14 of the Act there has to be deducted from the market rent an amount for tenant's improvements and disrepair.

35. The Tribunal considered that the appropriate deduction for disrepair was £330.00 per month. The members of the Tribunal concluded that this significantly high deduction was appropriate, in line with the principles of assessing quantum of damages under *Wallace v Manchester City Council* (1998) 30 HLR 1111 (and subsequent case law e.g. *Dezitter v Hammersmith and Fulham Homes* (Central London County Court, 7th November 2023)), to reflect the fact that every single room inside the Property was affected by varying degrees of significant damp and mould, in addition to other notable defects, to the extent that it is almost unfit for human habitation.

36. There was no deduction for tenant's own improvements.

37. Normally, the effective date when the new rent shall take effect is the date specified in the Notice. Under Section 14(7) of the Act, if it appears to the Tribunal that that would cause undue hardship to the tenant, then the Tribunal may instead direct that the new rent shall take effect from a later date (not being later than the date the rent is determined). There was no

specific evidence that the Applicant would suffer undue hardship in this instance.

38. The market rent for the Property is £450.00 per month, effective from 10th March 2024.