

Notice of the Tribunal Decision and Register of Rents under Assured Periodic Tenancies (Section 14 Determination)

Housing Act 1988 Section 14

Address of Premises

56 Airstone Road, Askern, Doncaster,
DN6 0QB

The Tribunal members were

Mrs Judith Oliver LLB
Mrs Sally Kendall BSc MRICS

Landlord

Ian Murray

Address

The Old Vicarage, Church Street, Askern, Doncaster, DN6
0PH

Tenant

Mr Ian Walker

1. The rent is: £

136.15

Per

Week

(excluding water rates and council
tax but including any amounts in
paras 3)

2. The date the decision takes effect is:

05 February 2024

3. The amount included for services is not
applicable

0.00

Per

4. Date assured tenancy commenced

25th June 2008

5. Length of the term or rental period

Weekly

6. Allocation of liability for repairs

Per Tenancy Agreement

7. Furniture provided by landlord or superior landlord

None

8. Description of premises

3 Bedroomed Semi-Detached house with living room. Kitchen, Bathroom and downstairs toilet. Garden to front and rear patio with garage built by tenant. Situate on large housing estate.

Chairman

Mrs Judith
Oliver LLB

Date of Decision

5th February
2024



FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference	:	MAN/OOCE/MNR/2023/0361
Property	:	56 Airstone Road, Askern, Doncaster, DN6 0QB
Applicant	:	Ian Walker
	:	
Respondent	:	Jayne Hardy and the Trustees of John Hardy deceased
Representative	:	Ian Murray
Type of Application	:	Housing Act 1988 Section 13
Tribunal Members	:	Tribunal Judge J. E. Oliver Tribunal Member S.A. Kendall
Date of Determination	:	5 th February 2024
Date of Decision	:	5 th February 2024

DECISION

Decision

1. The Tribunal has jurisdiction to deal with the application.
2. The rent payable for 56 Airstone Road, Askern, Doncaster, ('the Property') is £136.15 per week with effect from 5th February 2024.

Application

3. This is an application by Ian Walker ("the Applicant") for the determination of the rent payable in respect of the Property, pursuant to Section 13 of the Housing Act 1988 ('the Act').
4. The tenancy of the Property commenced in 1992, but when the Property was sold to John and Jayne Hardy, a new tenancy agreement was entered into, dated 25th June 2008.
5. The tenancy agreement provided for a tenancy of the Property to commence on 25th June 2008, subject to a rent of £100 per week.
6. Ian Murray, as agent for the Respondent, served a notice to increase the rent for the Property ("the Notice") from the existing rent of £100 per week (expressed in the Notice as £400 per calendar month) to £675 per calendar month. The Notice, dated August 2022, stated the increase was to take effect from 25th October 2023.
7. The Applicant objected to the proposed increase and filed an application with the First-tier Tribunal for the issue to be determined.
8. Both parties made submissions to the Tribunal and the matter was listed for a hearing on 5th February 2024.
9. The Tribunal inspected the Property on 5th February 2023 in the presence of the Applicant. Mr Murray did not attend.

Inspection

9. The Property is a semi-detached house on a housing estate in Askern Doncaster. The estate comprises housing of a similar age and style.
10. The accommodation comprises three bedrooms, living room, kitchen, bathroom with WC, downstairs WC, garage with driveway and front and rear gardens. The rear garden has been paved by the Applicant where a summer house has also been built.
11. In his written submissions and at the inspection the Applicant told the Tribunal of the work undertaken by him to the Property which it was able to observe.
12. In the first tenancy, from 1992-2008 the Applicant advise he had removed 34 tons of rubbish, laid the driveway, landscaped the gardens and erected fences to the side and rear of the Property. Internally, he had replaced the downstairs basin and toilet and kitchen worktops, laid laminate flooring in the living

room and new carpets on the stairs and in the bedrooms. Repairs had also been carried out to the roof.

13. During the current tenancy, from 2008, further work had been carried out. Outside the Property the Applicant had installed steel gates to both the driveway and front path. He had replaced the side fence on two occasions, built the garage and had subsequently replaced the original roof with a steel roof. He had removed a large tree from the rear garden which was said to be causing damage to the neighbouring property and had the laid decking to cover the stump. He had also laid a brick patio to the remainder of the rear garden and built a wooden summer house with hot tub. The Applicant confirmed the exterior of the Property had been cladded to provide insulation, but that had been done with the aid of a government grant. A grant had also provided for the front wall to be built, but the Applicant had built the side brick walls at the front of the Property.
14. Internally, in the same period, the Applicant had replaced the kitchen including a built-in oven and hob. In the living room he had remedied the floor when the back boiler was replaced. Central heating had been installed with the aid of a government grant. He had also replaced the bathroom, including tiling and a power shower. In the bedrooms there had been some replastering due to the roof leaking and floor coverings had been replaced.
15. The Applicant advised he had paid for all the gas and electricity checks during both tenancies.
16. The Tribunal noted the double glazing was defective, in that several of the units had "blown". The Applicant advised there remain issues with the roof that is leaking. The central heating boiler, whilst working is unreliable. A gas engineer had recently advised the system required a power flush and a new filter. The Tribunal also noted the ridge tiled require repointing.

Hearing

17. The Applicant attended the hearing and Mr Murray attended on behalf of the Respondent.
18. Mr Murray did not dispute the work undertaken by the Applicant to the Property.
19. The Tribunal queried the tenancy agreement the Applicant advised had been shown to him in November 2023 and of which he said he had no knowledge. Mr Murray advised the agreement was dated the 25th June 2008, the date of the commencement of the tenancy. The Applicant advised he didn't recall signing the agreement, but Mr Murray confirmed his signature was witnessed by the former owner, Julie Laverick. The agreement provided for rent payable at £100 per week.
20. The Applicant agreed there had been no increase to the rent since 2008, but this had been compensated for by his upkeep of the Property. He confirmed he was in receipt of benefits and the rent was paid every four weeks, Consequently the rent being paid is £430 pcm and not £400 pcm as set out in the Notice.

21. Mr Murray confirmed he had only had responsibility for the Property since 2012 when one of the joint owners had died and he was acting as trustee for his estate. It was the estate and Jayne Hardy who held the Property jointly. He had limited knowledge of the rent, hence the error in the Notice.
22. The Applicant confirmed he did not agree with the proposed rent increase and consideration should be made for the substantial improvements he had carried out together with the defects in the Property.
23. Mr Murray advised the proposed rent increase reflected the current property market and a rent of £675 pcm for the property was not unreasonable. Indeed, he considered a rent of £800 per calendar month would now be more appropriate. In looking at comparable properties within the area a flat was letting at £500 pcm.
24. Mr Murray queried whether some of the work undertaken by the Applicant should have been done, especially when no permission to undertake the same was sought from the Respondent. This was the case when removing the tree. The Applicant advised the removal of the tree was discussed with the owner, John Hardy, prior to his death.
25. The Applicant advised he had notified Mr Murray of remedial works required on 13th November 2023. This included problems with the central heating, the roof and a light in the downstairs toilet. No works were done to the roof and they remain outstanding. Mr Murray confirmed a power flush to the central heating, as recommended, would normally be done in warmer weather when the central heating is not normally in use and this would therefore be done at a later date.. The workmen did not see any defects to the roof and the Applicant has made no subsequent complaint and so no further work had been undertaken.
26. The Tribunal enquired of the Applicant whether any increase to the rent would cause him financial hardship were it to be effective from the date in the Notice. The alternative would be for any increase to be effective from the date of the hearing. The Applicant confirmed he was in receipt of benefits.
27. The Applicant stated that earlier in 2023 Mr Murray had contacted him regarding a rent increase and he had sought an increase in benefits to cover this, but it had been refused. The Tribunal was shown a letter where the increase was refused because it appeared the proposed increase had not been done in accordance with the requirements of the Act, namely by the service of the Notice. It was said no further application for a review of the rent could be made for a further 12 months unless there was an increase in accordance with the tenancy agreement. The Applicant advised he had no monies with which to pay any arrears not covered by his benefits.

Determination

28. The Tribunal firstly considered whether it had jurisdiction to deal with the application. The tenancy must be one that falls within section 13 of the Act.
29. The criteria for this are:
 - the tenant must have exclusive occupancy of the Property;
 - the Property must be a dwelling house;

- the dwelling house must be let as a separate property;
- the tenant must be an individual;
- the tenant must occupy the property as their principal home; all these conditions are met in this case.

30. The following criteria must then be satisfied:

- the tenancy is a periodic tenancy that makes no provision for a rent increase;
- any rent increase is in the prescribed form;
- the rent increase must be 52 weeks after the commencement of the tenancy;
- the rent increase must also be 52 weeks after any previous increase;
- the notice period for the increase must be at least one month;
- the notice must be signed by the landlords;
- the proposed rent must be specified to take effect at the beginning of a new period of the tenancy.

31. The Tribunal considered the submissions made by the parties. It noted the Notice was defective to the extent the existing rent was incorrectly described as payable pcm. However, at the hearing the Applicant confirmed the rent was being paid by the Benefits Agency at the rate of £100 per week in accordance with the tenancy agreement. The Tribunal did not therefore consider the Notice to be invalid for this reason.

32. The Tribunal thereafter considered the appropriate market rent for the property. The parties had filed no evidence of comparable properties in the area.

33. The Tribunal considered the open market rent of the Property, relying upon its own knowledge and expertise and also in the absence of any evidence from the parties. In this, it referred to properties currently on the market for rent. It found there were 5 properties comparable with the Property as follows:

- Gargrave Close, Askern -3 bedroomed link property with no garage-£600 pcm
- Campsall Park Road – 2 bedroomed semi-detached with garage - £700 pcm
- Crossfield Lane Skellow -3 bedroomed semi-detached with no garage-£650 pcm
- Marlborough Road, Askern-3 bedroomed semi-detached with no garage-£825 pcm
- Shakespeare Avenue, Campsall-3 bedroomed semi-detached house with no garage-£750 pcm

It determined the open market rent for the Property would be in the sum of £750 pcm.

34. The Tribunal considered that from the market rent there should be a deduction of ££145 pcm for the substantial improvements undertaken to the Property. The Tribunal accepted there was evidence of disrepair for which an allowance should be made. This relates to the issues with the central heating

system, the double glazing, ridge tiles and roof. A sum of £20 pcm would be deducted for these items.

35. The rent for the Property is therefore in the sum of £590 per calendar month, equivalent to £135.15 per week with effect from 5th February 2024, being the date of the Tribunal's decision.
36. In making its decision the Tribunal had regard to section 13(7) of the Act and considered the matter of undue hardship. It noted there was insufficient information provided to determine whether any arrears accrued, should the date of increase be the 25th October 2023 as specified in the Notice, be paid via Housing Benefit. The Applicant had advised the Tribunal he would struggle to pay the arrears without assistance. Accordingly, the Tribunal determined the rent of £136.15 per week is payable from 5th February 2024.