



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

Case Reference : **CAM/00MX/MNR/2024/0144**

HMCTS : **Inspection & Paper**

Property : **34A Green Street, High Wycombe, HP11 2RA**

Applicant (Tenant) : **Mr & Mrs Slawomir Dawidziuk**

Respondent (Landlord): **A Hussain**
Representative : **Thara Properties**

Type of Application : **Determination of a market rent under
Section 13 of the Housing Act 1988**

Tribunal Members : **Judge JR Morris**
Miss M Krisko BSc (Est Man) BA FRICS

Date of Decision : **27th January 2025**

DECISION

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DECISION

1. The Tribunal determined that a market rent for the Property in its present condition is £750.00 per calendar month to take effect from 17th January 2025.

REASONS

PROPERTY DESCRIPTION

2. The Property is a two-bedroom flat on the ground and first floor of a two-storey mid-terraced building probably constructed in the late 19th early or 20th century. On the ground floor, numbered 34 Green Street, is a clothes shop. Access to the flat above is via a shared passage way between 32 and 34 Green Street. The passageway gives access to the rear of numbers 30 to 40. 30 and 32 are residential houses, 36 and 38 are like 34 commercial premises with residential flats above. The Property extends over the passageway which is open at both ends. Apart from the shop front the building has brick elevations under a pitched concrete tile roof. The door to the flat is upvc and there are upvc double glazed replacement windows. The fascias are timber with upvc rainwater goods. There is no outside area to the demise only an

area covered by a polycarbonate shelter which gives access to the Property and the flat above number 36. There is no off-street parking and street parking is restricted.

Accommodation

Entry to the Property is directly into the kitchenette. The Property comprises, on the ground floor a galley kitchenette (5.5 m²) at the one end of which is the bathroom (2.5 m²) and at the other are stairs rising to a landing on the first floor which forms the living room (16.0 m²; 13.0 m² excluding staircase). To one side of the living room is a small double bedroom (12.7 m²) and to the other side is small single bedroom (6.2 m²).

Services

Space and water heating is by a gas fired central heating system. The Property has mains electricity, gas, water, and drainage.

Furnishing

The Property is let with two chests of drawers and wardrobes, otherwise it is unfurnished. Carpets are provided by the Landlord which are overlaid by the Tenants' rugs. The Landlord provided a fridge and washing machine at the beginning of the tenancy but these have been replaced by the Tenants. There is an electric cooker with gas hob in the kitchenette provided by the Landlord.

Location

The Property is situated in a residential street punctuated by shops on the edge of High Wycombe town centre.

THE TENANCY

3. The Tenancy commenced as a contractual monthly periodic Assured Shorthold Tenancy on 23rd October 2019 for a period of 12 months at a rent of £700.00 per calendar month and continued thereafter as a statutory tenancy on the same terms. Section 11 of the Landlord and Tenant Act 1985 applies in respect of the Landlord's repairing obligations.

THE REFERRAL

4. The current rent is £700.00 per calendar month. By a notice in the prescribed form dated 21st June 2024 the Landlord proposed a new rent of £1,200.00 per calendar month from 21st August 2024.
5. On 20th August 2024 the Tenant referred the notice proposing a new rent to the Tribunal. Directions were issued on 14th October 2024 informing the parties that the Tribunal did not intend to hold an oral hearing unless a request was made by 18th November 2024. Neither party made a request for a hearing. The Tenants completed the Reply Form attached to the Directions and an inspection took place on 17th January 2025.
6. The Tenants' Representative sent representations by email on 16th October 2024. However, due to an oversight by the Tenants' Representative the completed Reply Form was not received by the Tribunal until 13th January 2025 when a copy was also sent to the Landlord's Agent. It was not clear whether the Landlord's Agent had received the completed Reply Form in October. For the avoidance of doubt the

Tribunal gave the Landlord and Agent until 24th January 2025 to comment upon the Tenants' completed Reply Form which they duly did.

THE LAW

7. The relevant law is in section 14 of the Housing Act 1988 which is summarised below.
8. By virtue of section 14 (1) Housing Act 1988 the Tribunal is to determine a rent at which the dwelling-house concerned might reasonably be expected to be let in the open market by a willing landlord under an assured periodic tenancy-
 - (a) 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 rent) are the same as those of the subject Tenancy
9. By virtue of section 14 (2) Housing Act 1988 in making a determination the Tribunal shall 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 a relevant improvement (as defined by section 14(3) Housing Act 1988) carried out by a tenant otherwise than as an obligation; and
 - (c) any reduction in the value of the dwelling-house due to the failure of the Tenant to comply with any terms of the subject Tenancy.
10. Nothing in section 14 affects the right of the landlord and the tenant under an assured tenancy to vary by agreement any term of the tenancy (including a term relating to rent).
11. By virtue of section 14 (7) Housing Act 1988 Unless otherwise agreed between the Landlord and the Tenant the new rent shall take effect from the new period specified in the notice, if it appears to the 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

Tenant's Written Representations

12. The Tenant in written representations stated that Carpets had been provided by the Landlord but due to their poor condition had been overlaid by the Tenants' own carpets. In addition, it was stated that the Landlord had provided a fridge and washing machine at the beginning of the tenancy but due to them being in poor working order were replaced by the Tenants.
13. The Tenants also stated that:
 - In the kitchen the walls and cupboards were damp.
 - In the large bedroom there was damp and mould on the walls and behind the wardrobe which increases when it rained. They said they tried to control it using their own dehumidifiers.
 - In the bathroom there is a window but ventilation is poor which causes damp issues in winter.

- In the smaller bedroom, which is used primarily for storage the external wall is exposed to sunlight during the summer but becomes damp again in the winter.
14. The Tenants also said that they had been given permission by the occupier of the property next door to use that garden. As this is a private and separate arrangement between the Tenants and their neighbour outside the tenancy Agreement it is not a matter that the Tribunal can consider.

Landlord's Written Representations

15. The Landlord's Agent stated in written representations that they had not been the managing agent from the commencement of the tenancy but been instructed in August 2024 due to their having already managed several of the Landlord's properties around the town. The Landlord had already served the Notice of Increase and asked the Agent to negotiate the rent increase. The Tenants proposed a rent of £950 per calendar month. The Agent expressed the opinion that this was a market rate for 1 bedroom flat and the Property had 2 bedrooms even though the Tenants are only using the second bedroom for storage. It was submitted that 2-bedroom flats on the same road as the Property are rented out in the region of £1,200 - £1,500 per calendar month.
16. The Landlord provided carpets, curtains, a washing machine, and a fridge when the Tenants moved in and was not aware that they had stopped working and that the Tenants had purchased their own. If the Tenants had made him aware he would have arranged for new ones to be provided.
17. The Agent said that on its inspection of the Property upon taking over management it was noticed that mould was forming in certain rooms and that repairs were required. The Agent immediately informed the landlord who began to arrange for contractors to clean the mould and redecorate with damp proof paint. On the day that the landlord visited with his contractors they were denied access by the Tenants who wanted to reschedule the work. The Landlord was charged a call out fee but was happy to reschedule. When the Tenants were contacted to re-schedule, he was informed that one of the Tenants was ill and that they had cleaned the mould off and had repainted, for which they were thanked.
18. The Agent said that the Tenants believed that the loft required insulation and that they would do it if the landlord provided the materials. Although it had been insulated not very long ago the Landlord was happy to look at it again, but he was not happy for the Tenants to carry out the work as it is a job for a specialist contractor.
19. The Landlord is aware that there are several outstanding issues which need addressing and is happy to carry out all repairs at the Property but has not been able to do so due to one of the Tenants being ill and not being granted access. The Agent said the Tenants had been emailed regularly with a view to getting the work but without response.

CONDITION

20. The Tribunal inspected the Property on 17th January 2025 accompanied by the Tenants. The Landlord's Agent attended and was happy for the Tribunal to inspect notwithstanding the Tenants did not admit him. At the inspection the Tribunal only viewed the Property and no oral evidence was taken. The Tribunal found the property to be as described above. As to its condition the Tribunal found as follows.
21. Externally, the Property is in generally fair condition except the gutter and downpipes needed attention and some re-pointing was required. There were a considerable number of items in the common areas at the rear some of which appeared to be waste. The shared passageway has no lighting and the ceiling is painted strip timber which is now showing signs of rot and has sections missing.
22. Internally, the Tribunal found that the kitchenette and bathroom is dated and basic and there is no extractor fan in either. The base of the wall in the kitchenette adjacent the staircase showed signs of damp and mould indicating rising damp. There were signs of damp on the timber floor and walls caused by condensation in the small single bedroom.
23. The Energy Performance Certificate for the Property gives a rating of E. The Certificate states the walls are solid and this was confirmed at the inspection. At the inspection it was noted that on lifting the carpet where the Property extends over the shared passageway in the small double bedroom it could be seen, between the floorboards, that there appeared to be no insulation between the timber ceiling of the passage way and the floor above making this a cold area in winter. The Certificate confirms the loft is satisfactorily insulated.
24. The Property is inconveniently laid out for everyday living on two levels, with the bedrooms upstairs and bathroom downstairs, the living room upstairs and the kitchen downstairs. The stairs intrude into the living room and access to the bedrooms is through the living room. The carpets provided by the Landlord are thin and worn.

DETERMINATION

25. The Tribunal determines a market rent for a property by reference to rental values generally and to the rental values for comparable properties in the locality, in particular. The Tribunal does not take into account the present rent or the period of time for which that rent has been charged, nor does it take into account the percentage increase which the proposed rent represents to the existing rent.
26. The Tribunal only has jurisdiction to determine the rent. The Tribunal cannot take into account the personal circumstances of either a tenant or landlord. Therefore, the Tribunal cannot consider either the affordability of the rent for a particular tenant nor whether the rent reflects a rise in interest rates and its effect on an individual landlord's mortgage repayments.
27. The Tribunal assesses a rent based upon the condition of the Property at the time of the determination. It cannot consider the period for which a property might have been in disrepair prior to work being carried out by the Landlord. Equally it cannot consider work that is said to be intended or scheduled to take place in the future nor that it has not been possible to carry out work or replace appliances because the

Landlord has not been able to obtain access. The Landlord is expected to obtain the necessary access under the express or implied terms of the tenancy agreement.

28. The Tribunal took account of both parties' representations regarding the condition of the property and the Tribunal's own findings on its inspection. The Landlord's Agent stated that two-bedroom flats in the same road were in the region of £1,200.00 to £1,500.00 although neither party submitted evidence of rental values of specific properties comparable to the Property. The Tribunal, therefore applied the knowledge and experience of its members to determine a market rent for the Property considering rental values for such comparable properties it found in the locality.
29. The Tribunal was not able to find properties to let that were directly comparable in terms of age and construction but it did find that two-bedroom flats in the area that have been recently let or are currently on the market are within the range of £1,100.00 and £1,300.00. However, nearly all these flats are in modern purpose-built residential blocks. All have off street parking and some have communal grounds. They are well laid out on one level with entrance halls, off which are the bedrooms, bathroom, kitchen and living room. The flats are let in good decorative order with floorcoverings. They have modern bathrooms and kitchens with appliances. Those at the lower end are marginally larger and those at the upper end are significantly so, some with balconies. Those at the upper end also have door entry systems and secure parking.
30. The Property in comparison is above business premises in a mixed commercial and residential street. There is no off-street parking and street parking is restricted. The layout of the Property is inconvenient. The kitchen and bathroom are basic and dated. The Property being of solid wall construction is prone to condensation making it susceptible to mould infestation. Therefore, considering the age, structure, condition, facilities, layout, and locality of the Property in the context of other two-bedroom flats, the Tribunal determined that a market rent for the Property is £750.00 per calendar month.
31. Pursuant to section 14(7) it appeared to the Tribunal that it would cause the Tenant undue hardship for the new rent to commence on the date of specified in the Notice. therefore the Tribunal determined that it should take effect from 17th January 2025.
32. The Tribunal determined that a market rent for the Property is **£750.00 per calendar month to take effect from 17th January 2025.**

Judge JR Morris

Caution: The Tribunal inspected the Property for the purposes of reaching this decision. The inspection was not a structural survey and any comments about the condition of the Property in this statement must not be relied upon as a guide to the structural or other condition of the property.

APPENDIX - RIGHTS OF APPEAL

1. If a party wishes to appeal the decision to the Upper Tribunal (Lands Chamber) then a written application for permission must be made to the First-tier Tribunal at the Regional office which has been dealing with the case.
2. The application for permission to appeal must arrive at the Regional Office within 28 days after the Tribunal sends written reasons for the decision to the person making the application.
3. 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.
4. 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.