



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

Case Reference : **BIR/OOCN/MNR/2018/0049**

Property : **192A School Road, Hall Green,
Birmingham B28 8PA**

Applicant : **Keighley Sheppard**

Representative : **Not represented**

Respondent : **Lekhpal Singh**

Representative : **Not represented**

Type of Application : **Under Sections 13 and 14 of the Housing
Act 1988**

Tribunal Members : **N R Thompson FRICS (Chairman)
R Bryant-Pearson FRICS**

Date of Decision : **2nd October 2018**

Date of Issue: : **27th November 2018**

STATEMENT OF REASONS

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1. This Statement of Reasons has been prepared at the request of the Applicant, Ms Keighley Sheppard.
2. These written reasons should be read in conjunction with the Decision of the Tribunal dated 2nd October 2018.

Background:

3. The application in this case was received by the Tribunal on 20th August 2018 and was made by the current tenant, Ms Keighley Sheppard, who first occupied the premises on 10th October 2016 under the aegis of a twelve month Assured Shorthold Tenancy from that date at a rent of £600 per calendar month (“pcm”). It is in response to a proposal by the Landlord dated 4th August 2018 to increase the rent from £600pcm to £700pcm that the current application has been made.

The Law:

4. The relevant provisions in respect of the jurisdiction of the Tribunal and determination of a market rent are contained within sections 13 and 14 of the Housing Act 1988 (“the Act”).

Inspection:

5. Ms Sheppard and a friend were in attendance at the inspection on 2nd October 2018. There was no appearance or representation by Mr Singh.

The Property:

6. The property comprises a first and second floor flat above retail premises contained within a parade of brick and tile shops built during the interwar period in an established residential suburb of Birmingham some 5 miles south of Birmingham city centre. Access to the flat is gained via an external rear gate at ground floor level, incorporating a security keypad, and from there via an external metal staircase leading to a timber decked balcony area from which access is gained to the flat at first-floor level through double glazed sliding patio doors.
7. The property is double glazed throughout and has gas-fired central heating operated by a wall hung boiler in the bathroom. There is no outside area including in the tenancy agreement apart from the timber decked approach at first floor level and no garage or parking space, although road side parking is available in the immediate vicinity.

First Floor accommodation:

The sliding patio doors from the decking area give entry to the accommodation:

Kitchen: which has a variety of fitted units and both an oven and hob supplied by the landlord. Two of the lights in this area are loose and hanging from the ceiling, as is a broken smoke detector. In one corner of the kitchen there is a bare plaster boxing which apparently houses an extractor vent from the

premises below which are used as a pizza take-away shop. The Applicant showed the Tribunal signs of leaking from this vent and gaps around where it joins the ceiling and the walls. It was suggested that, during the evening in particular, strong cooking smells associated with the pizza production were evident in the flat. The kitchen then leads through a doorway (with no door) to the:

Living Room: which is a very irregular shaped room thus making it difficult to use sensibly in terms of setting up furniture etc. There are two double glazed windows in the living room – one of which (the bay window) appears to have ill-fitting units through which the Applicant said there are considerable drafts which result in it being difficult to actually heat the room properly - despite the fact that it has two central heating radiators. Leading from the living room is the:

Bathroom: which contains a shower cubicle with frosted glass window incorporating a small opening light; WC; wash hand basin; and full height but non-opening windows to the front. The central heating boiler is fitted to one of the walls of the bathroom. There is no central heating radiator or towel rail in the bathroom

A staircase then leads directly from the living room up to the:

Second floor accommodation: There is a crack approximately 1.5 m long where the staircase joins the wall of the adjoining premises through which the Applicant said there are considerable draughts.

At the top of the stairs there is an L-shaped landing which has a loose light fitting and the remains of what was once a smoke detector. There also appears to be a small hole or missing section of floorboard to the landing – although the carpet was not lifted to ascertain the precise nature of this. The headroom at the top of stairs is just under 6 feet and is therefore somewhat restricted. Furthermore, balustrading on the half landing on the stairs is insufficient and inappropriate for a property which might house small children – as would be likely in a three bedroom flat. The gap between the horizontal elements is sufficiently wide for a toddler to fall or climb through with ease.

From the landing there is access to 3 bedrooms, although two of them do not have doors fitted.

Bedroom 3 is a small single bedroom at the rear of the property, with one central heating radiator and a steeply sloping side ceiling. It has a dividing wall which does not totally separate the room from Bedroom 2 in that it stops at the internal face of the outside wall; thus resulting in a shared window between the two bedrooms and a gap (the width of the window cill) in the dividing wall. Visually there is a degree of privacy between the two rooms but in terms of noise there is greatly reduced privacy. Furthermore, taking the accepted norm of a usable height of 1.5 m, the Tribunal measured the bedroom and found the usable floor area to be just 5.6 m² i.e. significantly below the 6.51m² recommended in the Licensing of Houses in Multiple Occupation (Prescribed Description) (England) Order 2018 (“the Order”) as a minimum for use as a person over 10 years of age. The size of the room actually makes it suitable only

for occupation by one child under the age of 10 as defined by the Order. It should be noted however, that the Order only applies to houses in multiple occupation and therefore has no direct application to the subject premises. Nevertheless, its terms provide a useful guide to the sort of space standards which might realistically be appropriate to bedroom accommodation.

Bedroom 2 is also a single bedroom at the rear of the property and is not fully separated from Bedroom 3 by the partial wall referred to in the preceding paragraph. There is central heating radiator in this bedroom as well. The most notable feature of Bedroom 2 however is the continuation of the boxed-in vent from the ground and first floor, which goes from floor to ceiling, encased in bare plaster. There are gaps where the plaster joins the ceiling and holes at ground level where the vent boxing adjoins the skirtings and floorboards. The Applicant pointed out to us what appeared to be grease/liquid stains on the outside of the boxing.

Bedroom 1 is a small double at the front of the property and is of irregular shape. It has a central heating radiator and two double glazed windows as well as a sloping ceiling. One of the wall mounted electricity power sockets appeared to be loose and coming away from the wall.

Outside:

There is a decked entrance balcony on which there is a plastic garden storage container (actually designed to hold garden tools) housing the Applicant's washing machine which is plumbed from the kitchen.

Fittings:

The oven, hob and carpets throughout the flat belong to the Landlord, whilst the curtains and washing machine belong to the Tenant.

Hearing

- 8 At the request of the Applicant, a hearing was held at the Tribunal's Hearing Centre at 1 pm on 2nd October 2018 which was attended by the Applicant and a friend, Ms Dix who was there to lend moral support. The Landlord was not present or represented.
- 9 It was explained to the Applicant that the Tribunal was limited to determining the rental value of the property within the statutory framework of the Housing Act 1988 and the Tenancy Agreement under which she held it, based on the rental value as at 10th August 2018, the date when the new rent was due to come into force. Although it was clear from the papers that there was significant antagonism between the parties, it was explained that these were not matters with which the Tribunal could become involved, except to the extent they might have a specific bearing on the rental value of the premises; the role of the Tribunal was solely to determine that rental value.
- 10 When invited to address the Tribunal concerning the rental value of the property, the Applicant indicated that she did not agree with the £700 pcm now

being proposed by the Landlord, but would not necessarily argue with that figure if the appropriate repairs were carried out - which she had reported to the Landlord on numerous occasions but which he had failed to address.

- 11 The Applicant indicated that she did not consider the rental value to be even £600 at the present time, given the difficulties with the provision of utilities and the fact she had no control over her electricity as well as the deficiencies in the physical characteristics and state of repair of the property.
- 12 One of the issues referred to in the Applicant's submissions was a detailed schedule of the dates and times when the electricity supply had gone off and the process which she had had to follow in order to get it restored, given that there is no consumer unit within the flat and she is entirely reliant on her Landlord resetting the fuse box from adjoining premises. Ms Sheppard was not sure whether the consumer unit which provided the electricity to her flat came from the adjoining flat (where she believed the Landlord lives) or from one or other of the shops below. Whatever its location, Ms Sheppard does not have access to it – an issue graphically illustrated during the inspection when the electricity went off and she was obliged to text the Landlord in an effort to try and get the supply restored. The Tribunal was told at the hearing that it was eventually restored some 1 ¼ hours later.
- 13 Equally, the gas, water and electricity are not separately metered, and therefore any tenant of the premises is obliged to pay the Landlord for such services. Ms Sheppard indicated that she had repeatedly asked the Landlord if she could see the bills on which his demands for payment for these services were based, but these had never been produced.
- 14 No representations or submissions had been received from the Respondent.

Determination

- 15 The first issue to be addressed by the Tribunal in this type of case is to determine the rent at which the Property might reasonably be expected to let in the open market if it were let (i) at the date of the Landlord's notice of proposed increase in rent, and (ii) in a condition which would be considered usual for such an open market letting. In this instance, the Tribunal had regard to the comparables supplied by Ms Sheppard and the Tribunal's own experience as to rental values of similar properties in the Birmingham area in determining the open market rental value of the Property on that basis.
- 16 It was considered that most of the comparables provided by Ms Sheppard were considerably better in various respects than the Property - some of them were in Solihull, (which is generally a more desirable location); some of them were three-bedroom houses rather than flats; virtually all appeared to have conventionally shaped rooms; and a number appeared to be in a much better condition and have the more comprehensive facilities which would be expected in open market letting on an Assured Shorthold tenancy.
- 17 Accordingly, the Tribunal considered that in a good state of repair and condition, with a conventional layout, good quality decorations, carpets,

curtains and white goods and separately metered services, the rental value of the subject property would be in the order of £600 pcm. However, significant adjustments needed to be made to that figure to allow for the particular characteristics and deficiencies observed by the Tribunal at the time of inspection as more particularly detailed above.

In summary, these comprise:

- a. Loose light fittings in the kitchen.
- b. Broken smoke detector in the kitchen.
- c. Bare plaster boxing in the kitchen housing the extractor vent from the retail premises below.
- d. Signs of leakage from the boxing in the kitchen.
- e. No door from the kitchen to living room.
- f. Irregular shaped living room.
- g. Badly fitted glazing unit to one of the windows in living room.
- h. Crack to the wall adjoining the stairs to second floor.
- i. Loose fitting light fitting on the second floor landing.
- j. Broken smoke detector on the second floor landing.
- k. Small area of missing floorboard on the second floor landing.
- l. Restricted headroom on the staircase at second floor level.
- m. Deficient balustrading to the half landing on staircase.
- n. Missing doors from two of the three bedrooms.
- o. Incomplete dividing wall between Bedrooms 2 and 3.
- p. Restricted height of accommodation in Bedroom 3 and therefore useable floorspace.
- q. Bare plaster boxing for extractor vent in Bedroom 2 with gaps around the floor and ceiling joints.
- r. Irregular shape of Bedroom 1.
- s. Loose electrical socket in Bedroom 1.
- t. The lack of working fire or smoke detectors, coupled with the lack of doors on certain rooms (particularly but not solely, the kitchen) must call into question the integrity of the fire precautions of the Property.

u. No separate provision or control of utility services e.g. lack of electricity consumer unit within the Property.

18 Accordingly, the Tribunal considered these issues required a reduction of £80 per month from the notional rental value as defined above, thus resulting in a determination of the rent at £520 per month with effect from 10th August 2018.

N R Thompson

27th November 2018