



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

Case Reference : **CAM/31UB/MNR/2019/0021**

Property : **The Coach House, Desford Road, Thurlaston,
Leicester LE9 7TE**

Applicant (Tenant) : **Ms Veronica Tinsley**

**Respondent (Landlord):
Agent** : **Maxi Property Management Ltd
Ward Surveyors Ltd**

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

Tribunal Members : **Judge JR Morris
Mrs M Hardman FRICS IRRV(Hons)**

Date of Decision : **16th December 2019**

DECISION

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DECISION

1. The Tribunal determined a rent of £650.00 per calendar month to take effect from 1st November 2019.

REASONS

THE PROPERTY

2. The Property is a semi-detached two storey period house with solid brick walls under a pitched slate roof.

Accommodation

Access to the Property is via a drive which is shared by a detached cottage opposite the Property and the house attached to the Property as well as to other buildings beyond. The drive is flanked by a wall along which the Tenant may park vehicles. There is a door set into the wall along the drive through which is the garden to the Property. The garden is bounded by a wall on two sides, a fence and the Property itself. A path leads to the front door. On the ground floor the Property comprises a hall with stairs rising to the first floor and a cloak room with w.c. and wash hand basin, to one side of the hall is a kitchen/diner and to the other is a living room. The

kitchen abuts the drive and the Tenant finds it more convenient to use the kitchen door, which has a small porch, as the 'front door'. On the first floor is a landing off which are two double bedrooms and a large single bedroom and a bathroom. Outside, as stated there is a garden to the front of the house and a yard to the rear. The yard is not part of the demise and gives access to the house attached to the Property.

Services

Space heating is by electric convector heaters. Water heating is by an electric immersion heater. The Subject Property has mains electricity and water. Drainage is by septic tank, which is maintained by the Landlord. There is no gas.

Furnishing

The Property is let unfurnished.

Location

The Property is in a rural location about half a mile from the village of Thurlaston and about 8 miles from Leicester.

THE TENANCY

3. The Tenancy commenced as a monthly statutory assured tenancy that commenced in March 1993. As a Tenancy, not being for a fixed period of 7 years or more, s11 of the Landlord and Tenant Act 1985 applies in respect of the Landlord's liability for repairs.

THE REFERRAL

4. The current rent is £422.00 per calendar month. The Landlord by a notice in the prescribed form dated 10th September 2019 proposed a new rent of £775.00 per calendar month to be effective from 1st November 2019. On 16th October 2019 the Tenant referred the Notice to the Tribunal. The referral was a determination following an inspection of the Property and an oral hearing.

THE INSPECTION

5. The Tribunal inspected the Property in the presence of the Tenant, the Tenant's daughter and son in law, Mr and Mrs Miller and Mrs M Mason representing the Landlord.
6. Externally, the Property is in fair to poor condition. The walls were, in the past, rendered but this has been removed. Some traces of the render are still adhering and there are areas which need re-pointing.
7. The roof appeared to be in good condition. The ornate bargeboard or fascia to the side of the house was in fair condition. The guttering appeared to be in good condition. The upvc and cast-iron downpipes were in variable condition with two of the upvc pipes being split and the cast iron soil pipe needed to be reset into the drain socket at ground level.
8. The windows to the front of the Property are all upvc with double glazed units as is the front door. To the rear, one of the windows is upvc with a double-glazed unit but the remainder are timber with secondary glazing. These appeared to be in fair

condition for their age. The window over the kitchen door to the side of the house is timber and in good condition although needs a coat of paint externally. The kitchen door is timber although in fair condition being protected by the porch.

9. The driveway is in need of further gravel to level it and reduce the mud. The boundary garden wall leans quite significantly. The door to the garden set into the garden wall is in poor condition and difficult to open, which is a further reason for the Tenant to use the kitchen door for access.
10. Internally, the Tenant pointed out a hole in the hall ceiling above the front door, where a bee's nest had been removed necessitating the cutting away of a square of plaster board. However, the ceiling had not been made good.
11. The kitchen is dated and does not have modern fitted units. There is an extractor fan but it has no external cover which the Tenant said caused the fan to make a noise and the air to 'blow back' in windy weather. There are areas of damp to the lower parts of the front wall of the kitchen and there is a gap between the floor slab and the wall under the kitchen sink. The Tenant said that there is an ingress of water from this gap in wet weather which pools on the floor in that area.
12. There are full length storage cupboards on the rear wall of the kitchen which the Tenant said were damp. These had also been lined with polystyrene tiles, presumably to provide insulation. The under stairs cupboard contains the immersion heater tank and the electric consumer unit and circuit boards for the heating. The Tenant said that the tank did not heat up to a very high temperature and the boost switch had to be used regularly particularly for a bath.
13. There are areas of damp on the lower part of the living room walls. The cloakroom toilet pan was said to move releasing odours.
14. The Tenant pointed out cracks in the ceiling over the stairs. There was a small patch of damp which appeared to be due to condensation from the cold tank in the roof.
15. There are areas of damp in two of the bedrooms under the windows. The Tenant said that in one of these bedrooms the damp had caused the plaster to perish and she had this removed and the area re-plastered. The largest bedroom had been drylined to which the Tenant had made a financial contribution.
16. The bathroom was dated and the tiles showed signs of crazing. There was a shower over the bath. The Tenant said that she had paid for the electric heater in the bathroom.
17. Space heating is by electric convector heaters in each room. There is no additional heating provided. The fireplace in the living room has been capped off.
18. The Tenant pointed out areas where polystyrene tiles had been affixed by the previous occupiers. Some of these had been removed when the electric convector heaters were installed. The Tenant referred to areas where these tiles had been removed previously and the walls had to be skimmed before redecorating due to the adhesive adhering.
19. Original carpets and curtains had been provided. The carpet on the hall, stairs and landing is worn out and that in the living room is worn. The carpets have been

removed in the bathroom and one bedroom and the floor sealed. The carpets in the other two bedrooms have been replaced. The curtains and curtain rails in the bedrooms and sitting room have been replaced. White goods also had initially been provided in 1993 although these too have now had to be replaced by the Tenant.

THE LAW

20. 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
21. 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.

REPRESENTATIONS

22. Both parties provided written representation. A hearing was held which was attended by the Tenant, the Tenant's daughter and son in law, Mr and Mrs Miller and Mrs Mason representing the Landlord.

Applicant Tenant's Representations

23. The Tenant made written representations confirmed at the hearing as follows:
24. She said that she had:
- Replaced light fittings in the kitchen, sitting room, bedrooms and bathroom as well as replacing the smoke alarm;
 - Replaced the curtains and curtain rails in the bedrooms, and sitting room;
 - Removed the worn carpets in the bathroom and one bedroom and sealed the floors and replaced the carpet in the other two bedrooms;
 - Replaced the white goods.
25. She said she had paid to have a number of repairs carried out as follows:
- Replacement of fuses, replacing the element in the immersion heater, refitted the bannister, replaced toilet seats, replaced tap washers, re-sealed the bath, replaced the door locks on the kitchen door, had a new stop tap fitted, fitted an electric radiator in the bathroom, removal of damp plaster and re-plastering under the windows in one of the bedrooms.
 - Removal of rotten and damp wardrobes in two bedrooms and removed a redundant heater in one of the bedrooms.

26. She said that in the garden she had:
- Cleared the ground elder
 - Laid a lawn
 - Planted shrubs
 - Replaced the pond liner
 - Created a paved area
 - Built a fruit cage
 - Had the drains cleared of dead rats
 - Repainted the shed
 - Regularly used weed killer on the drive and raked it and placed a slab outside the porch to reduce the mud being carried into the house.
27. In addition, the Tenant wrote that when she took the Property in 1993 there was no tenancy agreement but that she was told that the internal decoration and the upkeep of the garden was her responsibility. The Property at that time was carpeted with curtains and lino in the kitchen and cloakroom. There was a cooker, fridge, washing machine and chest freezer. Heating was by storage heaters and the windows were secondary glazed over metal frames.
28. She said she had replaced the curtains and some of the carpets, the others were in poor condition.
29. The Landlord had replaced the hot water cylinder in 2000, 7 windows were replaced in 2011 and a further two windows were replaced in 2016 together with the back door and the main bedroom was drylined. In 2013 the render was taken off. In 2017/18 the storage heaters were replaced by convector heaters, a new fuse board fitted and electric switches and sockets replaced. The electricity costs over £3,000 per annum.
30. The Tenant said that the repairs still outstanding are:
- The Porch
 - Replacement of drain pipes which are split and overflow;
 - The brick wall along the drive leans to a considerable extent;
 - The downstairs toilet rocks and allows odours to escape;
 - The polystyrene tiles need to be removed from the ceilings and walls made good;
 - The ceiling over the stairs is cracked needs attention;
 - The stair carpet, the living room carpet and the linoleum in the kitchen needs replacing.
31. At the hearing the Tenant made oral representations stating the Property is very damp. She stated that a damp meter reading had been taken which indicated that the damp in the walls was more likely to be penetrating damp or condensation rather than rising damp. It was submitted that the solid wall construction made the Property more susceptible to both penetrating damp and condensation especially now the render had been removed. The Tenant said that in the Winter the living rooms walls were damp even when she had the radiators on.
32. The Tenant said that the damp walls and consequent mould growth and the need to skim the plaster on the walls and ceilings after removal of the polystyrene tiles made decoration more than what should be required of a tenant.

33. The Tenant also said that the Property was very expensive to heat. She said that in the last 5 days it had cost £55.00 to heat it to 16 degrees. To upgrade the Property the walls would need to be insulated.
34. She also drew particular attention to the dated kitchen and bathroom.

Respondent Landlord's Representations

35. The Landlord's Agent provided written representations describing the Property and giving its dimensions and providing three comparable houses. It was said that it is in a rural location with only a small number of dwellings around and is larger than the comparable dwellings, having a floor area equivalent to a reasonable sized 4-bedroom detached house (1,469 square feet/136.5 square metres). The garden was said to be of a considerable size extending to approximately 424 square yards/354 square metres and relatively private with high brick walls.
36. The properties submitted as being comparable were as follows (Internet details were provided):
 - 3-bedroom semi-detached house in the village of Thurlaston on Desford Road is smaller than the Property and with no garden but is in better condition and was let in October 2019 for £725.00 per calendar month.
 - 3-bedroom semi-detached house in Oak Close, Thurlaston is smaller than the Property and with a smaller garden but is in better condition and has a double garage and was let in August 2019 for £725.00 per calendar month.
 - 2-bedroom semi-detached house, adjacent to the Property called Coach Cottage is significantly smaller and with a smaller garden but is in better condition and was let in June 2019 for £695.00 per calendar month.
37. The Agent submitted that taking the properties referred to and the relative condition of the Property the rental for the Property would be £775.00 per calendar month.
38. Mrs Mason said in oral evidence the Landlord had purchased the Property in 2017 and since then, Mr Abrahams, the Director of the Landlord, arranged for the storage heaters to be replaced by convector heaters, a new fuse board fitted and electric switches and sockets replaced. He had also arranged for the cesspit to be emptied. With regard to the need to boost the heating, Mrs Mason said that the landlord let other properties with electric heating and that it was common to need to boost the heating during the day. She said that it was acknowledged that the kitchen and bathroom were dated and that further work was required but that the Landlord had taken the advice of the Agent with regard to the rent charged.
39. Mrs Mason said that she had understood the beekeeper would make good the ceiling following the removal of the bees but this would be done now she was aware of it. In addition, she said that the Landlord intended to upgrade the Property as part of a programme of works.

Representations Re Landlord's Agent's Comparable Properties

40. The Tenant said that the house in Oak Close was a new build and so would be better insulated and with modern facilities. Coach Cottage, adjoining the Property, is about half the size of the Property but is in far better condition and has a modern kitchen with integrated white goods, bathroom and floor coverings.

41. Mrs Mason said that Coach Cottage was in better condition. It had been on the market for £730.00 per calendar month and a rent of £695.00 per calendar month had been agreed. She said it had the same form of heating and has a kitchen, living room cloakroom on the ground floor and two bedrooms (whereas the Property has three) and a bathroom on the first floor.

DETERMINATION

42. 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. It does not take into account the present rent and the period of time which that rent has been charged nor does it take into account the percentage increase which the proposed rent represents to the existing rent. In addition, the legislation makes it clear that the Tribunal cannot take into account the personal circumstances of either the Landlord or the Tenant.
43. The Tribunal assesses a rent for the Property as it is on the day of the inspection disregarding any improvements made by the Tenant.
44. The Tribunal considered the closest comparable was Coach Cottage. The Tribunal used the knowledge and experience of its members and found that if the Property were in the same condition as Coach Cottage then, allowing for its larger size overall and it having three bedrooms it would achieve a rent of £825.00 per calendar month. However, the Tribunal found from its inspection and the written and oral representations that the Property is not in the same condition and that the following items would have an effect upon the rent which a tenant would be prepared to pay:
- a) Irrespective of whether it was rising, penetrating or condensing, there was evidence of damp in all rooms except the main bedroom. In the main bedroom the damp looks to have been remedied by the drylining of the solid brick walls (to which the Tenant paid a modest contribution), probably by improving the insulation of that room.
 - b) The Coach Cottage has the same electric convector heating system although it accepted that the Property would be relatively more expensive to run due to its larger size and lack of insulation. This additional cost is accounted for when considering the effect of the damp.
 - c) The kitchen and bathroom were dated including the tiling compared with that of Coach Cottage.
 - d) The original white goods have been replaced by the Tenant, as have the curtains. The floor coverings have either been replaced or are due to be replaced. The Tribunal has therefore assessed the Property as being let without carpets curtains and white goods unlike Coach Cottage.
 - e) The following items of repair although, in the absence of evidence to the contrary, are the Landlord's responsibility were found to have been paid for by the Tenant: the replacement of the smoke alarm, the locks on the front door, the stop tap, refitting of the bannister, replacement of the heater in the bathroom, replacement of faulty light fittings and the clearing of drains.

- f) There are some works outstanding in that the making good to the hall ceiling, the timber framed secondary glazed windows at the rear and the down pipes at the front need some attention, the toilet pan in the cloakroom needs to be reset, areas of the walls where the render has been removed need repointing and the shared drive needs additional gravel.
45. To take account of these matters the Tribunal made a deduction of £175.00 per calendar month. It should be noted that this figure cannot be a simple arithmetical calculation and is not based specifically upon capital cost but is the Tribunal's estimate of the amount by which the rent would have to be reduced to attract a tenant.
46. The Tribunal noted other matters to which the Tenant had drawn attention. The installation of the electric heaters and the upgrading of the electrical installation was carried out by the Landlord and therefore the historic condition of the electricity is not a matter the Tribunal can consider. Also, the removal of the heater in the bedroom, the replacement of the TV aerial and BT telephone connection and the removal of the rotten wardrobes is not a matter that the Tribunal considered was a landlord's responsibility. The replacement of the shower head, tap washers and the toilets seats are fair wear and tear and a tenant's responsibility.
47. The polystyrene tiles are a decorative finish and their removal is the responsibility of a tenant. The maintenance of the garden is also a matter for a tenant. The cracks in the ceiling over the stairs did not appear significant.
48. The Tribunal therefore determined that the **market rent for the Property is £650.00 per calendar month.**
49. The Tribunal determined that in accordance with section 14 (1)(a) and (b) Housing Act 1988 the rent should commence from the beginning of the period of the Tenancy and having taken account of section 14 (7) Housing Act 1988, determined that the increased rent should take effect from the **1st November 2019.**
50. This is the maximum rent that the Landlord can charge although a lesser amount might be agreed.

Judge JR Morris

Caution: The Tribunal inspected the subject 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.