



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

Case Reference : **MAN/00CJ/MNR/2019/0074**

Property : **102 Great North Road, Gosforth
Newcastle upon Tyne NE3 5JP**

Applicant : **Mr David Kirkup**

Respondent : **Deneview Properties Limited
c/o I Ellinson & Co**

Type of Application : **Tenant Appeal Against Application by the
Landlord Proposing a New Rent under an
Assured Periodic Tenancy
Housing Act 1988 Section 14 (the “Act”)**

Tribunal Members : **I D Jefferson FRICS
K Usher**

Date of determination : **25 November 2019**

Date of decision : **12 December 2019**

DECISION

Background

- 1 By way of an Application dated 8 October 2019 the Applicant, the Tenant of the Property, referred to the Tribunal his Application (the Application) referring a notice of increase in rent (the Notice) by the Landlord of the property under Section 13 of the Housing Act 1988.
2. The Notice is dated 25 September 2019 and proposed a new rent of £450.00 per month instead of the existing rent of £411.67 per month to take effect from 17 November 2019.
- 3 The Tribunal acknowledged receipt of the Application and fixed the date of 25 November 2019 to both inspect the Property and deliberate. Neither Party requested a Hearing. Each Party was invited to submit representations. Both Parties put forward written representations and the Tribunal were also provided with a copy of the Tenancy Agreement dated 14 May 2004.
- 4 For reasons which will become clearer below the Tribunal do not intend to detail these submissions.

Inspection

- 5 The Tribunal inspected the Property both externally and internally on 25 November 2019, the Tenant was present at the inspection. Again, for reasons which will become apparent later the Tribunal do not intend to detail the Accommodation, nor deal with any comparables put forward, nor indeed issue a Decision in respect of the rental value.

The Law

- 6 The Tribunal first had to determine that the Tribunal had jurisdiction to hear the Application by reference to the validity of the Notice, in order to determine a rent under S14 of the Act. In short the Tribunal must determine that the landlord's notice under Section 13 (2) satisfied the requirements of that section and was validly served.
- 7 The Act provides in section 13(2) as amended by the Regulatory Reform (Assured Periodic Tenancies) (Rent Increases) Order 2003 that the date in paragraph 4 of the Landlord's notice (the date the new rent becomes payable) must comply with three requirements.
- 8 The first requirement is that a minimum period of notice must be given before the proposed new rent can take effect.
- 9 The second requirement is that the starting date must not be less than 52 weeks after the date on which the rent was last increased using this procedure although there are exceptions to this.

- 10 The third requirement is that the proposed new rent must start at the beginning of a period of the tenancy (see paragraph number 17 of the Guidance Notes forming part of the prescribed form of the Landlord's Notice).
- 11 Section 14 of the Act requires the Tribunal to determine the rent at which it considered the subject property might reasonably be expected to be let on the open market by a willing Landlord under an Assured Tenancy in so doing the Tribunal is required by Section 14 (1) to ignore the effect on the rental value of the property of any relevant tenants' improvements as defined in Section 14 (2) of the Act.
- 12 Only if a landlord's notice complies with each of the requirements referred to above does a Tribunal have jurisdiction to determine a rent under section 14 of the Act.

The Tribunal's Decision

- 13 The Tenancy Agreement is dated 14 May 2004 between Deneview Limited and Mr David Kirkup. The Tenancy states that it shall commence on 17 May 2004 and shall continue from week to week. There is further provision for the Tenant to pay the rent in advance on every fourth Monday.
- 14 The Landlord's Notice stated a proposed new rent per month in place of the existing rent per month. The starting date for the new rent is stated to be 17 November 2019.
- 15 The appropriate procedure to initiate a proposed new rent is as set out in Section 13 of the Act.
- 16 The Tribunal find the Notice to be invalid for the following reason:
- The Tenancy Agreement would appear to be from week to week i.e. a weekly tenancy. Payment of rent on a different basis does not affect the nature of the Tenancy. Without prejudice to that determination the starting date for the new rent proposed in the Notice does not accord with the third requirement of the legislation namely that the proposed new rent must start at the beginning of a period of the Tenancy.
- 17 The Tribunal determine that the Landlord's Notice is invalid. The Tribunal therefore does not have jurisdiction to determine a rent under Section 14 of the Act.

ID Jefferson
Tribunal Judge
12 December 2019