



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

Case reference : **BIR/37UJ/MNR/2020/0063**

Property : **39 Byron Road
West Bridgford
Nottingham
NG2 6DY**

Applicant : **Ms S Davis**

Representative : **None**

Respondent : **R K Property Management**

Representative : **Mr Robert Kay
Johnstone House
2a-4a Gordon Road
West Bridgford
Nottingham
NG2 5LN**

Type of application : **Application under Section 13(4) of the
Housing Act 1988 referring a notice
proposing a new rent under an Assured
Periodic Tenancy to the Tribunal**

Tribunal members : **G S Freckelton FRICS
Mrs K Bentley**

**Venue and Date of
Determination** : **The matter was dealt with by a paper
determination on 9th February 2021**

DETAILED REASONS

BACKGROUND

1. On 3rd December 2020, the Applicant (tenant of the above property) referred to the Tribunal, a notice of increase of rent served by the Respondent (landlord of the above property) under section 13 of the Housing Act 1988.
2. The Respondent's notice, which proposed a rent of £130.00 per week with effect from 14th December 2020, is dated 9th November 2020.
3. The date the tenancy commenced is stated on the Application Form as being 'Around 26 years ago' and is an Assured Shorthold Tenancy. The current rent is stated in the Respondents notice as being £120.00 per week.
4. The Tribunal issued its Decision following a paper determination on 9th February 2021. The Applicant subsequently requested written reasons and these detailed reasons are provided in response to that request.

INSPECTION

5. Due to the COVID-19 pandemic and to comply with the revised Tribunal Regulations the Tribunal was unable to carry out an inspection of the property. The Tribunal considered whether an external 'drive by' inspection was necessary but as the Tribunal members had previously inspected the property at the time of the two previous Applications it subsequently considered that it had enough information to proceed with the determination without such an inspection.

ACCOMMODATION

6. Based on the information provided in the Application form and subsequent submissions, as well as its own previous inspections, the Tribunal understands that the property comprises an end terraced house of traditional construction having a pitched tiled roof situated in an area of predominantly similar type properties.
7. Briefly the accommodation comprises of hallway with stairs off to the first floor, front lounge, rear dining room and small kitchen on the ground floor. The kitchen is fitted with a limited range of basic units. There is a store off under the stairs.
8. On the first floor the landing leads to two double bedrooms and bathroom being fitted with a three-piece sanitary suite having a shower over the bath. The Worcester gas fired combination boiler is located in a cupboard in the bathroom.
9. The house has gas fired central heating and UPVC double glazing throughout although the front door is not double glazed.
10. At the previous inspection in January 2020 the Tribunal was informed that the gas fires to the lounge and dining room were fitted by the Respondent but serviced by the Applicant. The Tribunal now understands from the Respondent's submission that the Applicant has been reimbursed for the cost of servicing the gas fires and that the Respondent has subsequently serviced them. The carpets, curtains and white goods are understood to be the Applicants'.

11. Externally there is a small front forecourt and small rear yard/garden which, the Tribunal understands, was landscaped by the Applicant. The Applicant has also repaired the rear store sheds.

EVIDENCE

12. The Tribunal received written representations from both parties which were copied to the other party.
13. Neither party requested a hearing and the Tribunal therefore made a determination based upon the written submissions received.

THE APPLICANT'S SUBMISSIONS

14. In her submission the Applicant confirmed that she had been a resident at the property for around 26 years and that she was living on her own and was in receipt of state benefits and housing benefits with no other source of income. The Local Authority, Rushcliffe Borough Council had previously informed the Applicant that they would not be able to increase their contribution towards her rent.
15. During the previous three years the Applicant was of the opinion that she had already been subject to rent rises which were beyond the underlying level of inflation in the market and that her rent had already risen from £370.00 per month to £480.00 per month which was increase of around 30%.
16. The Applicant submitted that there had been no improvements made to the property during the previous year. In particular she submitted that the roof continued to sag, the external decoration was poor and areas repaired by the landlord in the previous year due to damp and the ingress of water causing a collapsed bathroom ceiling remained unrestored to their previous condition. In the opinion of the Applicant, the damage to the internal decoration was directly caused by the landlord failing to adequately maintain the structure of the property.
17. In summary, the Applicant submitted that the proposed rent increase was not justified by any improvement the landlord had made to the property and was not justifiable given the ongoing deterioration of the property. In particular, the sagging roof and repointing required to the chimney had not been attended to.
18. The Applicant further submitted that the property had not been upgraded by the landlord to put it into a marketable condition at the level of prices which the Respondent landlord was suggesting. Indeed, a full refit of the property at a cost of many thousands of pounds would be required before a higher rent could reasonably be expected to be achieved.
19. In conclusion the Applicant confirmed that she was unable to absorb any further rent increase without suffering a detriment to her health and well-being and if she was forced to move from the area at the present time that would compromise the care she could provide for her father who was currently undergoing chemotherapy.

THE RESPONDENT'S SUBMISSIONS

20. The Respondent submitted that in June 2018 the passing rent was £92.50 per week (approximately £400.00 per calendar month). This was increased to £110.00 per week on 3 December 2018 and to £120.00 per week in December 2019 following an application to the Tribunal.
21. Following the previous decision of the Tribunal the Applicant tenant was reimbursed for her payments made to service the gas fires which have since been fully serviced by the landlord.
22. The Respondent submitted that the Office for National Statistics Data for the Index of Private Housing Rental Prices change from November 2019 to November 2020 gave a growth reading of 2.2% in the East Midlands, but notwithstanding this the Respondent was of the opinion that the evidence of recent lettings of similar properties in the area justified the proposal to increase the rent to £130.00 per week.
23. In the opinion of the Respondent, West Bridgford had become an increasingly sought-after area to live and rents had increased accordingly to balance the level of supply and demand. As comparables the Respondent referred to several two-bedroom terraced or end of terraced houses which had been let at rents ranging between £785.00 per calendar month – £895.00 per calendar month. The Respondent therefore submitted that the market rent for a two-bedroom terraced house this location should be in the region of £185.00 per week.
24. The Respondent therefore submitted that the proposed rent of £130.00 per week was very reasonable and that the Applicant tenant would therefore continue to enjoy the discounted rent that had been applied for many years.

THE LAW

25. In accordance with the terms of section 14 Housing Act 1988 the Tribunal proceeded to determine the rent at which it considered that the subject property might reasonably be expected to be let on the open market by a willing landlord under an assured tenancy.
26. In so doing the Tribunal, as required by section 14(1), ignored the effect on the rental value of the property of any relevant tenant's improvements as defined in section 14(2) of that Act.

THE TRIBUNAL'S DECISION

27. The Tribunal noted that the property was in generally acceptable condition although if it was to be marketed today then improvements would be required.
28. In coming to its decision, the Tribunal had regard to the members' own general knowledge of market rent levels in the area of Nottingham. West Bridgford itself is generally considered to be a relatively sought-after residential area.
29. Having regard to the general level of rents in the area the Tribunal concluded that if the subject property had been in good condition the market rental value would have been £150.00 per week.

30. The Tribunal then made the following adjustments to reflect the improvements carried out by the Applicant:

| | |
|-------------------------|-----------------|
| 1) Repairs to stores | 1.50 |
| 2) Carpets and curtains | 9.00 |
| 3) <u>White goods</u> | <u>5.50</u> |
| Total | £16.00 per week |

31. However, the property as inspected by the Tribunal was not in the condition that would be expected in the open market and the Tribunal therefore also made the following deductions to reflect the condition of the property as follows:

| | |
|-------------------------------------|----------------|
| 1) Lack of double-glazed front door | 1.50 |
| 2) <u>General repairs</u> | <u>2.50</u> |
| Total | £4.00 per week |

32. The Tribunal therefore concluded that an appropriate market rent for the property would be £130.00 per week (£150.00 - £16.00 - £4.00).

33. The Tribunal therefore determined that the rent at which the property might reasonably be expected to be let on the open market would be £130.00 per week and therefore confirmed the rent specified in the landlords notice.

34. However, under section 14 (7) of the Act the Tribunal is given the discretion to either increase the rent from the beginning of the new period specified in the notice or, if it *appears to [the appropriate tribunal] that this would cause undue hardship to the tenants with effect from such later date (not being later than the date the rent is determined) as the committee (now the Tribunal) may direct.*

35. In this case the Tribunal considered the submission of the applicant in particular:

- a) That the Local Authority had informed her that they were unable to increase their contribution to the rent and;
- b) That she would be unable to absorb any further rent increase without suffering detriment to her health and well-being.

36. The Tribunal therefore determined that there was evidence of undue hardship in this case and that the rent increase should therefore take effect from 9th February 2021 being the date of the Tribunal's decision rather than the date on the landlords notice.

APPEAL

37. Any appeal against this Decision can only be made **on a point of law** and must be made to the Upper Tribunal (Lands Chamber). Prior to making such an appeal the party appealing must apply, in writing, to this Tribunal for permission to appeal within 28 days of the date of issue of this Decision, (or, if applicable, within 28 days of any decision on a review or application to set aside) identifying the decision to which the appeal relates, stating the grounds on which that party intends to rely in the appeal, and stating the result sought by the party making the application.

G S Freckelton FRICS
Chairman
First-tier Tribunal Property Chamber (Residential Property)