



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

Case Reference : BIR/00CN/MNR/2021/0026

Property : 36 Towyn Road, Birmingham, West Midlands, B13 9NA

Applicant : Mr Mark Evans

Respondent : P & K Properties Limited

Type of Application : Appeal against a notice proposing a new rent under an Assured Periodic Tenancy under section 13(4) of the Housing Act 1988

Tribunal Members : Mr I.D. Humphries B.Sc.(Est.Man.) FRICS
Mr D. Douglas

Date and Venue of Hearing : Telephone Hearing on 12th October 2021.

Date of Decision : 21 October 2021

DECISION

- 1 The rent is determined at £127.00 (One Hundred and Twenty Seven Pounds) per week from 7th June 2021.

REASONS

Introduction

- 2 The tenant, Mr M.B. Evans, holds a weekly assured tenancy of 36 Towyn Road, Moseley, West Midlands, B13 9NA, that he has held since 11th October 1993.
- 3 On 9th April 2021 the landlord served notice of increase under section 13(2) of The Housing Act 1988 proposing a rent of £199.00 per week to take effect on 7th June 2021. Neither the previous nor proposed rents included any amounts for Council Tax, water rates or fixed service charges.
- 4 On 10th May 2019 the tenant applied for the rent to be determined by the First-tier Tribunal Property Chamber.
- 5 On 12th October 2021 the Tribunal inspected the property and determined the rent at £127.00 per week with effect from 7th June 2021.
- 6 On 18th October 2021 the Tribunal received a request for Reasons from the landlord.

The Law

- 7 Section 14 of The Housing Act 1988 states:

'(1) Where, under subsection (4)(a) of section 13 above, a tenant refers to a rent assessment committee a notice under subsection (2) of that section, the committee shall determine the rent at which, subject to subsections (2) and (4) below, the committee consider that the dwelling-house concerned might reasonably be expected to be let in the open market by a willing landlord under an assured tenancy -

- (a) which is a periodic tenancy 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 the rent) are the same as those of the tenancy to which the notice relates;...'*

'(2) In making a determination under this section, there shall be disregarded -

- (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 carried out by a person who at the time it was carried out was the tenant, if the improvement-*
 - (i) was carried out otherwise than in pursuance of an obligation to the immediate landlord ...*

- 8 The jurisdiction of the Rent Assessment Committee was transferred to the First-tier Tribunal (Property Chamber) from 1st July 2013.

Facts Found

- 9 The Tribunal inspected the front elevation of the property on 12th October 2021. The Tribunal were unable to inspect the interior due to covid regulations.
- 10 The property comprised a traditional inner terrace Victorian house located on the eastern fringe of Moseley not far from the A34 Stratford Road. The surrounding area is mainly terraced housing similar in age and character. It is within walking distance of local shops, schools and bus routes to the city centre which is about three miles to the north.
- 11 The same Members of the Tribunal inspected the property in 2019 when determining the rent, but as they were unable to inspect in 2021 due to covid restrictions, the parties were specifically asked at the telephone Hearing whether there had been any changes to the property since 2019. The parties advised that the only changes were that the landlord had replaced the back door and a toilet cistern, otherwise they both said it was in the same condition. The Tribunal therefore relied on the description in its previous Decision in 2019 but noted the new back door and cistern. In the 2019 Decision, the property was described as follows:

'The accommodation comprises a hall, two reception rooms, kitchen, lobby and bathroom on the ground floor with a landing, two bedrooms and box room accessed through the back bedroom on the first floor. The property is set back from the pavement and has a small enclosed yard to the rear. There is no room for any off road parking but there is street parking on the road frontage.

The house is two storey brick and slate construction with a two storey brick and slate wing and single storey brick and slate wing to the rear, containing the bathroom.

There are radiators in the two reception rooms, hall and back bedroom but no heating in the front bedroom or box room. There is double glazing. The accommodation is in basic condition, for example, the kitchen walls are unplastered painted brick, there are minimal kitchen cupboards, the back bedroom ceiling is uneven, the electrical conduit is surface mounted and the bathroom suite dated. Externally, there is flashband over the front bay where the roof joins the front elevation of the house, the fences to both sides of the yard are dilapidated and the slab paving is uneven. The house needs investment to bring it to current standards.'

- 12 When the Tribunal arrived at the property the Tenant opened the front door and showed damaged plaster to the hall wall, near the door, which was clearly visible to the Tribunal members and taken into account by the Tribunal reaching its Decision, together with the points raised by the parties.

Submissions

13 The Applicant's Submission

The Applicant's case can be summarised as follows:

- 1 it is claimed the tenant's requests for repairs to be carried out are often ignored;
- 2 only one of the bedrooms is heated;
- 3 the windows are poor quality;
- 4 the kitchen units have fallen apart;
- 5 the gutters are causing problems;
- 6 there are damp problems;
- 7 there is loose plaster in the hall;
- 8 Mr Evans quoted 3 comparable properties:

104 Tenby Road Moseley, B13 9LY

A terraced house with two reception rooms, two bedrooms and bathroom let at £575.00 per calendar month. Details confirmed in writing by Paul & Sons Estate Agents.

24 Reddings Lane, Springfield B11 3HB.

A house let at £550.00 per calendar month

24 Nansen Road, Sparkhill, B11 4DT

A three bedroom terraced house let at £550.00 per calendar month.

14 The Respondent's Submission

By email to the Tribunal dated 28th June 2021, Mr Khan wrote:

' Regarding the above, I want the inspection to take place as soon as possible should the Tribunal insist on viewing the property internally. In my view, there is no need to view the property as it is exactly as it was at the previous inspection; except the wooden back door has been replaced by a new double glazed UPVC door.'

Mr Khan also said:

- 1 there was kerbside parking;
- 2 it was close to the main road and all amenities;
- 3 the tenant kept the property in poor decor;
- 4 the landlord had replaced the back door and a toilet cistern;
- 5 Mr Khan referred to four comparable properties:

Leighton Road, Moseley, B13 8HD

The house number was not provided. The information comprised a screen shot from Rightmove showing a mid-terraced house described as unfurnished with asking rent of £995 per calendar month, marketed by Nicholas George Ltd., Moseley. No other details were provided.

78 Greswolde Road, Sparkhill, B11

A screen shot of the front of a mid-terraced house described as having 3 bedrooms, a bath and two receptions, advertised on Zoopla at £875 per calendar month. No other details were provided of the estate agent, accommodation or condition.

Coldbath Road, Moseley, B13

House number not provided. A screen shot of the front of a mid-terraced house described as having 3 bedrooms, a bath and two receptions, advertised on Zoopla at £795 per calendar month. No other details were provided of the estate agent, accommodation or condition.

49 Dads Lane, Moseley, B13

A screen shot of the front of a 1930s semi-detached house described as having 3 bedrooms, a bath and two receptions, advertised on Zoopla at £895 per calendar month. No other details were provided of the estate agent, accommodation or condition.

Decision

- 15 The Tribunal took account of the location, accommodation, condition and external appearance of the property together with the parties' submissions in writing and during the telephone hearing before arriving at its decision.

- 16 The new back door and toilet cistern are noted but are not improvements for which there should be a rent increase, they are repairs for which the landlord is liable under section 11 of the Housing Act 1988.
- 17 With respect to the rental evidence, the Tribunal noted the landlord had provided little information regarding the condition or facilities of the four houses referred to as comparable or whether they had been let at the asking prices which ranged from £795-£995 per calendar month.
- 18 The tenant had provided addresses of three houses as evidence, one of which had been verified by the letting agent and the other two were at rents of £550.00 per calendar month.
- 19 The Tribunal were aware of the facilities in the property including the basic kitchen units, unplastered kitchen walls and limited heating from their previous inspection and the landlord had confirmed there had been no changes since that date, other than the new door and cistern. The hall wall plaster was also clearly in poor condition.
- 20 All the evidence presented by the parties is of monthly rents whereas the subject property is let weekly. The Tribunal therefore takes the monthly comparables into account when reaching its decision and converts the rent to a weekly figure.
- 21 On balance, the Tribunal considered the market rent to be no higher than £550.00 per calendar month for this house in present condition which is equivalent to £126.92 per week, rounded up to £127.00 per week.
- 22 The rent determined by a previous Tribunal in 2020 was £129.00 per week but there is no automatic right for a landlord to achieve a rent increase, the Tribunal assesses property at the date of hearing based on the evidence brought and their own general knowledge and experience of rents in the area on the day. On this occasion, the Tribunal finds the rental value to be £127.00 per week under the Act.
- 23 Accordingly, the Tribunal determines the rent under section 14 of The Housing Act 1988 at £127.00 (One Hundred and Twenty Seven pounds) per week with effect from 7th June 2021.

I.D. Humphries B.Sc.(Est.Man.) FRICS
Chairman

Appeal

If either party is dissatisfied with this decision an application may be made to this Tribunal for permission to appeal to the Upper Tribunal, Property Chamber (Residential Property) on a point of law only. Any such application must be received within 28 days after the decision and accompanying reasons have been sent to the parties (Rule 52 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013).