



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

Case Reference : **CAM/33UG/MNR/2021/0051**

Property : **352A (Top Floor Flat) Dereham Road,
Norwich, NR2 4DL**

Applicant : **Ms L Brown (Tenant)**

Respondent : **Ms M Prime (Landlord).**

Date of Application : **3rd September 2021**

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

Tribunal : **Mr R T Brown FRICS Chairman**

Date : **15th November 2021**

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REASONS FOR DECISION

Background

1. The Tribunal gave formal notice of its decision by a Notice dated 15th November 2021 in the sum of **£565.00 per calendar month (pcm)**.
2. By an application dated 3rd September 2021, the tenant of the above property referred a notice of increase in rent served by the landlord under section 13 of the Housing Act 1988 to the Tribunal.
3. The landlord's notice dated the 26th August 2021 proposed a rent of **£595.00 pcm**, with effect from 10th October 2021, in place of the current rent of £525.00 pcm.
4. The tenancy is an assured shorthold tenancy. The current tenancy agreement is in common form and commenced on 10th March 2019, however it appears from the papers that the tenant may have been in occupation from sometime in 2014. The tenancy is subject to the Landlord's repairing obligations defined in Section 11 the Landlord and Tenant Act 1985.

Property and Inspection

5. Following the Directions dated **7th September** 2021 and the explanation contained therein, the Tribunal did not inspect the premises.
6. Extracting such information as it could from the papers supplied to the Tribunal by the parties, by reference to information publicly available on the internet and with the benefit of its knowledge and experience the Tribunal reached **the following conclusions and found as follows:**
7. The property is located on a busy main road in a residential area to the south of Norwich City Centre.
8. The property comprises a centrally heated double glazed Top Floor Flat in converted house.
9. The accommodation comprises: 1 reception room, kitchen, 1 bedroom, shower room. Outside: Communal courtyard and off street parking.

10. The inventory dated 20th December 2014 supplied to the Tribunal indicates that at the time the property was let it was unfurnished but included carpets, curtain and white goods. That inventory indicates that in 2014 the decorations were in satisfactory condition.
11. The Tribunal assumed that all mains services are connected.

Hearing

12. A hearing was not requested.

Documents supplied to and considered by the Tribunal

13. Tribunal Directions dated 7th September 2021.
14. Landlord's agent (Langford Estates): Reply Form and submissions.
15. Tenant: Application and Reply Forms, Notice of Increase and Tenancy Agreement and submissions.

Landlord's Representations (summarised):

16. The Landlords agents representations:
 - a) Floor plan and photographs.
 - b) Right Move 'Best Price Guide' covering the period January to September 2021 detailing:

23 flats within 1 mile of the subject property (including purpose built flats) either 'let Agreed' or 'No longer advertised' at rents ranging from £595.00 to £750.00 pcm (an average of £672.50).

Tenant's Representations (summarised)

17. In the Application and Reply Forms and submissions the tenant:
18. Detailing issues of repair including (with photographs):
 - a) Living Room: Damp patch on chimney breast, exposed wall needing re-plastering, old wallpaper constantly peeling.
 - b) Kitchen: Damp patches on ceiling, low quality linoleum.
 - c) Bedroom: Damp patches on ceiling, damp and rotten floorboard under carpet and hole in carpet.
 - d) Shower room: Flaky paint on ceiling since start of tenancy.
 - e) Courtyard: Gravel poor quality presenting trip hazard. Entrance door dilapidated.
 - f) Issues with the chimney and valley causing damp.

- g) Guttering blocked with debris.
19. Improvements carried out by Tennant include: signage on the front gate, shelving in kitchen, Cupboard and shelf in shower room.
 20. The following items belong to the tenant: Tumble dryer, dishwasher, tall fridge, microwave and chest freezer.
 21. Improvement Notice issued by Norwich City Council dated 19th August 2021 identified:
Lack of trickle vents, damp in Bedroom ceiling, around chimney and under carpet.
Lack of appropriate mechanical ventilation to Kitchen and Bathroom.
Lack of adequate loft insulation.
Overhaul rainwater goods.
Extend handrail to stairs to include the winders.
 22. Correspondence between Tenant and agent regarding repairs.
 23. As to rental value the Tenant says:
 - a) All properties displayed are well presented.
 - b) It is unlikely that any of the properties presented are subject to Improvement Notices.
 - c) The properties shown at the higher end of the range are in Norwich's 'golden triangle' the subject flat is not.
 - d) Many of the properties in the Landlord's submission are purpose built.
 - e) The report from Zoopla provided by the Tenant indicates the average rent for this area is £566.00 pcm.
 - f) Research on Zoopla, Right Move and On The Market give a range of rents between £525.00 and £675.00 pcm (an average of £600.00).
 - g) The Tenant says there should be no increase (from £525.00).

The Tribunal's Deliberations

24. The Tribunal is required to determine the rent at which the subject property might reasonably be expected to be let in the open market by a willing Landlord under an assured tenancy.
25. The personal circumstances (or any dispute between them) of the Tenant or Landlord are not relevant to this issue.

26. The Tribunal found as a matter of fact that the notice was a Notice under section 13 as prescribed by Statute.
27. The Tribunal checked the National Energy Performance Register and noted that the subject property has a certificate registering the energy performance at the property at D expiring on 27th November 2028. The legal minimum standard for letting a property is rating E.
28. Based on its knowledge the Tribunal finds that the market for this type of property is very sensitive to condition and inventory. The subject property appears to the Tribunal to be in condition that would not immediately appeal to a prospective tenant.
29. The Tribunal, acting as an expert tribunal, determined what rent the landlord could reasonably be expected to obtain for the subject property in the open market if it were let today in the condition and subject to the terms of such a tenancy that is considered usual for such an open market letting. It did this by having regard to the evidence supplied by the parties and the Tribunal's own general knowledge of market rent levels.
30. The Tribunal considered the evidence of the parties and noted:
 - a) The Tenant had considered evidence from both Zoopla, Right Move and On The Market and noted that the Zoopla average rent was £566.00 pcm. The rents on Zoopla, Right Move and On The Market were between £525.00 and £675.00. (average £600.00).
 - b) The Landlord's agent looked at only Right Move (and included purpose built flats) which produced a range of rent between £590.00 and £750.00 (average £672.50) and does not explain how the figure of £595.00 was calculated.
 - c) On balance the Tribunal preferred the approach used by the Tenant because that analysis covered a wider range of advertising media. The Landlord's agent had produced a schedule of lettings from only one source which included purpose built flats (which this Tribunal do not consider to be relevant) without any attempt to analyse those comparables to the subject property.

d) Neither party had indicated how much, if any, deduction should be made for the effect of the identified disrepair and the consequent Improvement Notice.

e) It appeared to the Tribunal that this property has fewer white goods than might be expected in a fully modernised property on the market today.

31. Having done so, it concluded that such a likely market rent for a similar modernised property in fair condition with central heating, modern bathroom and kitchen facilities, floor coverings, curtains and an EPC Rating above F and after careful consideration of the property, current market conditions determined that the market rent for such a property is **£625.00 pcm.**

32. On the limited evidence before the Tribunal the member concluded that on the test of a balance of probability that this property was below the standard required to achieve the market rent of £625.00 pcm.

33. To reflect these matters Tribunal accordingly deducted the following sums:
a) General disrepair identified by the tenant and in the Improvement Notice: £50.00 pcm.
b) Limited white goods (no tumble dryer or dishwasher): £10.00 pcm.

A total deduction of **£60.00 pcm**

34. Accordingly the Tribunal determined that the market rent for the subject property is **£565.00 pcm.**

35. The rent will take effect from 10th October 2021 being the date specified by the landlord in the notice of increase.

Relevant Law

36. Sections 13 and 14 of the Housing Act 1988.

37. Assured Tenancies and Agricultural Occupancies (Forms) (England) Regulations 2015 (SI 2015 No.620)

RIGHTS OF APPEAL

1. A person wishing to appeal this decision (on a point of law only) to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application to the First-tier Tribunal at the Regional office which has been dealing with the case. Where possible you should send your application for permission to appeal by email to rpeastern@justice.gov.uk as this will enable the First-tier Tribunal Regional office to deal with it more efficiently.
2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.
3. If the person wishing to appeal does not comply with the 28 day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking