



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

**Case reference** : **CAM/33UH/MNR/2020/0029**

**HMCTS code** : **A:BTMMREMOTE**

**Property** : **19 St Mary's Drive Diss Norfolk  
IP22 4PT**

**Applicant** : **Vania Ahmed and Emanuel  
Lambelho**

**Respondent** : **Maria Czekawn-Lemke and Damian  
Lemke**

**Type of application** : **Section 14 of the Housing Act 1988  
Determination of market rent  
payable.**

**Tribunal member(s)** : **M Hardman FRICS IRRV(Hons)**

**Date of hearing** : **18 January 2021**

**Date of decision** : **11 February 2021**

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**DECISION**

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**Covid-19 pandemic: description of hearing**

This has been a remote [audio] hearing which has been consented to by the parties. A face-to-face hearing was not held because it was not practicable and all issues could be determined in a remote hearing. The documents that I was referred to are in individual bundles produced by the Applicant and the Respondent. I have noted the contents and my decision is below.

## **Decision:**

1. The Tribunal determined a rent of **£725** per calendar month to take effect from 11 February 2021

## **Reasons**

### **Background**

2. The Landlord by a notice in the prescribed form dated 26 October 2020 proposed a new 'rent' of £695 per calendar month to be effective from 7 December 2020. On 4 November 2020 the tenant referred the Notice to the Tribunal. This was in lieu of the £625 per month which appears to take effect from 7 November 2018.
3. No inspection took place due to measures introduced to combat the spread of the Coronavirus (COVID-19) and to protect the parties and the public, particularly those at risk.
4. Parties were requested to complete a pro forma supplying details of the accommodation on a room by room basis, the features of the property (central heating, white goods, double glazing, carpets and curtains) and other property attributes and any further comments that they may wish the tribunal to take into consideration. This could include any repairs and improvements that had been made, any comments on the condition of the property and rentals of similar properties – should they wish to rely on these.
5. They were invited to include photographs and were informed that the Tribunal may use internet mapping applications to gather information about the location of the property and may inspect externally.
6. The determination would take place based on the submissions from both parties unless either party requested a hearing. Further evidence together with photographs was submitted by both the landlord and the tenant. The tenant requested a hearing on 18 November 2020
7. The landlord submitted further documents and photographs in response to the tenants' submissions on 7 January 2021 and asked the tribunal to increase the proposed rent to £750 per month

### **The Property**

8. The property is a later 20th century brick-built terraced house with a pitched, tiled roof.
9. The accommodation comprises a large sitting/dining room and a kitchen to the ground floor and three bedrooms with a bathroom/wc to the first floor.
10. There is central heating which was installed by the landlord.

11. The white goods were provided by the landlord.
12. There is a garden to the front and rear and off-road parking

### **The Tenancy**

13. The Tenancy commenced as a contractual Assured Shorthold Tenancy for a fixed term of 12 months from 7 October 2018. A copy of the agreement (undated) was provided. From 7 October 2019 a statutory tenancy on the terms of the written agreement appears to have arisen. Section 11 of the Landlord and Tenant Act 1985 applies in respect of Landlord's repairing obligations

### **The Law**

14. 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
15. 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 – Tenant**

16. Mrs Ahmed stated in her written submission, and expanded on this during the hearing, that she felt that the increase to £695 was unfair in that it was a 11.7% increase and £100 more over four years
17. There was a history of problems with the boiler which had entailed a series of visits by the engineers over a number of months. It had last broken down in November 2020 and whilst it had been fixed fairly quickly they did not have much hot water. The boiler had a tendency to switch off unexpectedly and was generally temperamental.

18. She felt that the landlord did not fix things that broke quickly enough and there were some other issues including some damage to small areas of the laminate floor, some mould in the bathroom and discolouration above the exterior front door.
19. She said that despite these issues they had always paid their rent and had painted some of the house at their own expense.
20. In terms of comparables rents she did not have any specific evidence. They were looking to move but she felt that she would find it hard to find another property to rent due to local demand at a rent they could afford.

### **Representation – Landlord**

21. Mrs Lemke said that they had rented out the house at a preferential rate at £595 and now needed an economic rent.
22. When the tenant informed them that a repair was needed they fixed it. They were aware of issues with the boiler and started to look at replacing when it failed a second time. They had arranged a visit by a British Gas representative and ordered a new boiler on 22 November 2020. The earliest installation date was 25 January 2021 and the boiler was to be installed on that date.
23. The property was visited by a Housing Standards Officer from Norwich Council in 2019 following a report from the tenant. They had carried out all the repairs required.
24. She felt that damage to the laminate floor was due to the tenant moving heavy equipment from place to place. They were not aware of the mould in the bathroom until they saw the tenants' photographs and had now resolved that.
25. She felt that the tenants did not always maintain the property to the extent required under the tenancy – citing a blockage to the drains and weeds to the rear patio which detracted from the amenity of the property.
26. In terms of comparables she had provided four properties up for letting:
  - i) A one bedroomed apartment in Diss at an asking rent of £625
  - ii) A three bedroomed semi-detached house in Diss at an asking rent of £800
  - iii) A three bedroom semi- detached house on the outskirts of Diss at an asking rent of £825
  - iv) A three bedroom terraced close to the centre of Diss at an asking rent of £825

27. She has also asked a local letting agent, Whittleby Parish for a rental valuation on 4<sup>th</sup> December 2020 and they had advised that £750 was a realistic rental figure for the property.

### **Determination**

28. 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.
29. The Tribunal assesses a rent for the Property as it is on the day of the hearing disregarding any improvements made by the tenant but taking into account the impact on rental value of any disrepair which is not due to a failure of the tenant to comply with the terms of the tenancy.
30. However, where a repair or improvement to be made by the landlord is scheduled and imminent the tribunal may decide to take it into account.
31. The tribunal in reaching its decision has given some limited weight to the valuation provided by Whittleby Parish although this was an opinion of value, unsupported by any evidence of actual lettings and certainly in respect of the written opinion provided to the tribunal, post-dates by some weeks, the section 13 notice.
32. Turning to the comparables provided by landlord, the tribunal has not attached great weight to the first – see Para 26(i) as being of a completely different character and appealing to a different market. Comparable (ii) appears a superior property having a downstairs cloakroom and an ensuite bathroom as well as a garage. Comparable (iii) is not altogether dissimilar but situated in a more rural location backing onto open countryside and (iv) again is not dissimilar although has a conservatory and a downstairs cloakroom, new carpets and redecoration.
33. The Tribunal is mindful that the rents in respect of the comparables are asking rent as opposed to evidence of the rent achieved. Taking all factors into account, and that the valuation date is 7 December 2020 when the market was uncertain the Tribunal believes that the rental value for the property as at the valuation date was £725 pcm.
34. The Tribunal needs then to consider whether this need adjusting to reflect any disrepair or any other defects which were the responsibility of the tenant or his predecessor in title to remedy and also any improvements which the tenant has carried out. Given the boiler fitting was imminent at the date of the hearing and that the tribunal received

confirmation that it had been fitted no allowance has been made for the boiler nor for any other factors.

35. On this basis the tribunal believes that the rental value for the property in good condition would be in the region of **£725 per month**.
36. Section 14(7) of the Housing Act 1988 gives the tribunal discretion to determine the date of the rent where backdating the rent to the beginning of the new period specified in the notice would cause undue hardship to the tenant. The tribunal, having reviewed the submission of the tenant is satisfied that this would be the case and the rent of £725 per month takes effect from 11 February 2021, the date of this decision.

**M Hardman FRICS IRRV(Hons)**  
**Regional Surveyor**

### **Rights of appeal**

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

If a party wishes to appeal this 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.

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.

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.

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.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).