



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

Case Reference : CHI/00HX/MNR/2020/0085

Property : 23 Fontmell Close, Swindon, Wiltshire, SN25
2PE

Type of Application : Decision in relation to Housing Act 1988

Tenant : Alison Slaven

Landlord : Sovereign Housing Association

Date of Decision : 6 January 2021

Tribunal Members : **R T Athow FRICS MIRPM (Chairman)**
C Davies FRICS ACI Arb
S Hodges FRICS

Reasons for the decision

BACKGROUND

1. The Landlord served a notice under Section 13(2) of the Housing Act 1988 which proposed a new rent of £835.00 per month in place of the existing rent of £800.00 per month to take effect from 1st December 2020.
2. The tenancy is an assured periodic tenancy from 19 October 2013, but the current tenancy agreement states it is from 1st January 2016.
3. On 7 November 2020 the Tribunal received an application from the Tenant under Section 13(4) of the Housing Act 1988.
4. On 26 November 2020 the Tribunal made Directions informing the parties that in view of the Governments advice with respect to the Covid 19 outbreak an inspection would not take place. The parties were given the opportunity to provide supporting photographs of the property and if desired make representations to have the case stayed until an inspection was possible.
5. The Directions required the Landlord to send a statement to the Tenant and to the Tribunal supporting the application for an increase in rent. The Tenant was also required to send a statement to the Landlord and to the Tribunal in support of her objection.

INFORMATION

6. The matter has been dealt with as a paper determination without hearing. In the current circumstances it has not been possible to inspect the property and the Tribunal relies on submissions from the Landlord and Tenant in correspondence, publicly available housing data online and its own expert knowledge.
7. The property is a terraced house with 2 bedrooms, living room, bathroom, separate WC, cloakroom, kitchen, and has a garage and garden. There is central heating and double glazing, and the property has fitted carpets, curtains and white goods.
8. The Energy Performance Certificate dated 28 July 2011 gives the property an energy rating of 79/C.

Tenant's submissions.

9. The tenant submits there are various issues of disrepair to the property as follows:-
 - (1) The WC does not flush properly. Contractors have visited on numerous occasions but failed to cure the defect. They state the cause is insufficient fall on the waste pipe. No remedial action has been undertaken to correct this defect.
 - (2) There are sewage smells

- (3) The en-suite shower leaks have been repaired, but the damage caused has not been made good, making the bathroom look unsightly.
 - (4) The water tank is noisy. Contractors have attended site, but failed to alleviate the problem. They state a new tank is required, but the Landlord has not actioned this.
 - (5) The garage is not waterproof, and as a result is damp.
10. The third bedroom is small, only being suitable for a small child or office use.
11. The Tenant has installed an outside light and a disabled person's access to the shower.
12. With regard to the rent there has been a steady increase of rent throughout the tenancy, and the latest proposed increase is too high when taking into account the disrepair and small third bedroom.

Landlord's submissions.

13. The landlord submitted a copy of a letter to the Tenant dated 10 December 2020 explaining how they reached the rent proposed.
14. Also enclosed was a "Rightmove – Best Price Guide" which gave details of two properties (one duplicated), showing the rents for similar properties at £875 and £880 per month.

The Law

15. S14 Determination of Rent by First-tier Tribunal

(1) Where, under subsection (4) (a) of section 13 above, a Tenant refers to a First-tier Tribunal a notice under subsection (2) of that section, the Tribunal shall determine the rent at which, subject to subsections (2) and (4) below, the Tribunal 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; and*
- (d) in respect of which the same notices, if any, have been given under any of Grounds 1 to 5 of Schedule 2 to this Act, as have been given (or have effect as if given) in relation to 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- was carried out otherwise than in pursuance of an obligation to his immediate Landlord, or*
- (c) (ii) was carried out pursuant to an obligation to his immediate Landlord being an obligation which did not relate to the specific improvement concerned but arose by reference to consent given to the carrying out of that improvement; and*
- (d) any reduction in the value of the dwelling-house attributable to a failure by the Tenant to comply with any terms of the tenancy.*

(3) For the purposes of subsection (2)(b) above, in relation to a notice which is referred by a Tenant as mentioned in subsection (1) above, an improvement is a relevant improvement if either it was carried out during the tenancy to which the notice relates or the following conditions are satisfied, namely-

- (a) that it was carried out not more than twenty-one years before the date of service of the notice; and*
- (b) that, at all times during the period beginning when the improvement was carried out and ending on the date of service of the notice, the dwelling-house has been let under an assured tenancy; and*
- (c) that, on the coming to an end of an assured tenancy at any time during that period, the Tenant (or, in the case of joint Tenants, at least one of them) did not quit.*

(4) In this section "rent" does not include any service charge, within the meaning of section 18 of the Landlord and Tenant Act 1985, but, subject to that, includes any sums payable by the Tenant to the Landlord on account of the use of furniture, in respect of council tax or for any of the matters referred to in subsection (1) (a) of that section, whether or not those sums are separate from the sums payable for the occupation.

CONSIDERATION AND DETERMINATION

16. The Tribunal has considered the representations of both parties.

17. The personal circumstances of the Landlord and Tenant are not relevant to this issue.

18. 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.
19. In determining the appropriate rent, the Tribunal would disregard any tenant's improvements made under the existing tenancy. The installation of an outside light and disabled access to the shower are not considered to have any effect on the rental value.
20. Using the evidence provided together with its local knowledge the Tribunal has been able to assess the appropriate rental value for the flat in a normal letting state.
21. The letting market has grown substantially in recent years and there is now ample evidence of open market rents for Assured Shorthold Tenancies. In the competitive market that now exists, such properties need to be in first class structural and decorative order and be equipped with all amenities such as full modern central heating, double glazing and other energy-saving facilities along with white goods, carpets and curtains to ensure the property attains its full rental income potential. Where such items and facilities are missing the Tribunal has noted that the rent is found to be correspondingly lower.
22. The conclusion is that an appropriate open market rent for the property let in first class condition as outlined above on a modern open market letting of an Assured Shorthold Tenancy where the tenant has no liability to carry out repairs or decorations and the landlord supplies white goods, carpets and curtains would be £900.00 per month.
23. However, the property is not in the condition described above and a prospective Tenant would expect to pay a lower rent to reflect those differences. The defective drains, the noisy water tank and the damp garage are all items that would affect the rental value. The Tribunal considers that the reduction in rent to reflect these would be of the order of 7.5% to give a rental value of £832.50 per month, but feel it appropriate to round this to £835.00 per month.
24. The Tribunal therefore determines that the rent payable from 1 December 2020 being the date stated in the notice is £835.00 per month.

PERMISSION TO APPEAL

1. A person wishing to appeal the decision 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.

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.