



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

Case reference : **CAM/26UK/MNR/2020/0034**

HMCTS code : **A:BTMMREMOTE**

Property : **24 Harwoods Road Watford Herts
WD18 7RA**

Applicant : **Qamar Zaman**

Respondents : **Vipul Patel and Deven Patel**

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

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

Date of hearing : **8 March 2021**

Date of decision : **31 March 2021**

DECISION

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 **£950** per calendar month to take effect from **15 November 2020**

Reasons

Background

2. The Landlord by a notice in the prescribed form dated 12 October 2020 proposed a new 'rent' of £1300 per calendar month to be effective from 15 November 2020. On 11 November 2020 the tenant referred the Notice to the Tribunal. This was in lieu of the previous rent of £950 per month.
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.

The Property

7. The property is a three bedroom Victorian terraced house of brick construction with a tiled roof.
8. The accommodation comprises a lounge/dining room, kitchen, utility room to the ground floor. There are three bedrooms and a bathroom/wc to the first floor
9. There is central heating and some double glazing which was installed by the landlord.
10. Carpets, curtains and white goods were provided by the landlord.

11. There is a small area to the front of the property and a garden to the rear.

The Tenancy

12. The Tenancy commenced as a contractual Assured Shorthold Tenancy for a fixed term of 12 months from 19 October 2015. A copy of the agreement dated 15 October 2015 was provided. There were subsequent tenancy agreements for 12 months from 19 October 2016 and 12 months from 19 October 2017. There was then provided a copy of a tenancy agreement for 12 months from 19 January 2018, a further agreement for 12 months from 15 May 2019. From 15 May 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.
13. All tenancy agreement prior to the agreement commencing 15 May 2019 were stated to be at a rent of £1300 per month. However, there was an amendment to the agreement of 15 October 2017, dated 18 September 2018 to £1150 per month with a £50 'discount' if the rent was received on or before 5th of the month as of 1 September 2018. This agreement also stated that the rent of £1300 was subject to the same £50 discount.
14. The tenancy agreement of 15 May 2019 states the rent to be £950 per month.

The Law

15. 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
16. 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 – Landlord

17. Mr Deven Patel appeared on behalf of himself and Mr Vipul Patel, his business partner. He said that they had purchased the house in October 2015 and immediately let it to Mr Qamar Zaman and his wife Mrs Qamar Zia although other members of the family also lived with them.
18. He said that the state of the property was as shown in the particulars from Zoopla that he had submitted as part of his evidence. The agreed rent was £1300 per month with a £50 per month discount for payment by 5th of the month.
19. The tenancy was renewed in October 2016 with the addition of Samar Ellahi, the son of the existing tenants and renewed again in October 2017 also at £1300 per month.
20. In January 2018 the tenant requested that they amend the tenancy agreement to remove the name of their son. In September 2018 the landlords agreed to a reduction in rent to £1150 with a £50 deduction for prompt payment.
21. From January 2019 the tenancy continued on a periodic basis as the landlords had plans to carry out an extension and loft conversion. However, in May 2019 Mr Zaman and Mrs Zia requested a new tenancy agreement for their security. They were granted a one-year tenancy at £950 per month. Mr Patel said that, prior to signing this agreement, they made it very clear to the tenants and their son, Mr Ellahi that they were renewing the tenancy on the proviso that they would leave by the end date or earlier if they managed to source another property.
22. That tenancy agreement ended in May 2020 during the initial COVID lockdown and whilst they were ready to start building works they did not ask they tenants to leave. Mr Patel said that he could have served notice on them before the requirement for 6 months' notice came into force as he knew that change was coming but he didn't so do.
23. He expected them to go after lockdown eased but they appeared to be making no effort to find another property. He said that this was because there was little available in central Watford within their price range.
24. He and his partner were anxious to get vacant possession as they had paid £5000 for a party wall agreement which only had a 12-month duration.
25. As it was going nowhere they thought is reasonable to go back to the rent that they had originally charged 5 years ago. He did not believe they were asking full value as rents for similar properties in Watford was between £1400 and £1500 per month and he had attached two examples of asking rents for properties in central Watford in his bundle

together with a Zoopla rental estimate on the subject property at £1500- £1800.

26. Mr Patel said that it was only after service of the s13 notice to increase the rent on 12 October 2020 that the tenant complained about defects in the property. He saw it as their retaliation against the notice to increase the rent as was their approach to the council.
27. When asked about the list of defects by the Tribunal – see tenants evidence in paragraph 38 – Mr Patel’s response was that he was unaware of the alleged issues. In terms of the shower and the difficulties with the gas cooker he did not believe these. In respect of all he said that was he aware they would have been addressed.
28. The mould he said was due to lack of ventilation as the tenants didn’t leave the windows open.
29. He didn’t accept that the house was uninhabitable and said that the council had not upheld the list in their letter of 8 December 2020. The tribunal asked whether he was able to provide written evidence of this . He did so following the Tribunal sending an email from Chreenagh Foley, Environment Health Officer at Watford Borough Council which said ‘I can confirm that the tenant has informed me that they left on 15th Feb 2021 and that I have now closed the case.’
30. He felt that they had been very fair with the tenants but ultimately their financial circumstances were not their concern. If they had served a s21 notice on them then the tenants may well have had to pay £2000 in court fees. As landlords they wanted the house back and the tenants were struggling to pay. He felt at £1300 per month the property would go tomorrow and it wouldn’t matter what condition it was in.

Representation – Tenant

31. In his written evidence Mr Samar Ellahi, acting on behalf of his parents who were the tenants, said that the property was not in good condition. The living/dining room was in poor condition with uneven flooring and worn out carpets. It was cold due to inadequate heating and an old style single glazed window.
32. The kitchen was worn out with faulty equipment, the extractor didn’t work, the electric cooker didn’t work and the gas burner was faulty. It was cold due to old style windows and sometimes snails were found inside as the doors and windows did not lock.
33. The bedroom carpets were worn and bedroom two had poor fitted wardrobes. The windows of this room made the room cold and the radiator didn’t heat up adequately. The room had been subdivided but

both parts shared a single radiator. The third bedroom he said was too small to fit a bed.

34. The bathroom had a low ceiling, the shower didn't work and the hot water took a long time to heat up if running a bath.
35. At the hearing Mr Ellahi explained that his parents had stayed at the property as it was close to the hospital where they were receiving treatment
36. He did not accept that the property was as suggested in the photographs produced by Mr Patel but that it was damp and in poor condition. He did not accept that he had reported issues in retaliation for the service of the notice to increase the rent. Up to that point they had tolerated the issues based on the lower rent. However, if the rent was to be increased to £1300 then the property needed to be up to spec and the issues needed attending to. He had contacted the landlords in October and November but no action had been taken. The landlords had only visited the property in connection with the intended renovation work.
37. He felt he had to contact the council to get anything done and that he had been left with no choice.
38. The issues that had been raised with the Watford Borough Council Environmental Health Department and which they itemised in their letter to the landlords following their inspection were:
 - Cooker hood in the kitchen not working
 - Shower not working
 - Damaged and missing floor covering throughout the property including at the entrance to the kitchen
 - Controls for the gas burners are stiff and difficult to use and sometimes the ignition fails
 - Radiators are not functioning and possibly need bleeding
 - Minor condensation problem as evidenced by small patches of mould growth
39. He felt that the landlords had no intention of fixing any of the issues as at that stage in October/November 2020 as they wanted repossession of the property to redevelop. It had suited them to keep the tenants in the property up to the point at which they were ready to go ahead with the redevelopment, and in fact they had lived in a previous property of the landlords' whilst the contractors were working in it.
40. He said in February 2021 his parents had left the property as it was uninhabitable although they continued to pay the rent. They felt very threatened by the prospect of having to pay £2000 in court fees as suggested by Mr Patel.

41. When questioned by Mr Patel why they paid £1300 if the market rent was £950 he replied that when they wanted to leave the rent was reduced to £1150 and then £950. The landlords wanted them to stay as they didn't want a vacant property and as the property deteriorated no one else would have occupied it.
42. Mr Patel said that neither he nor his partner was in need of the £950 rent from this property as it didn't mean much to them. The property was obviously habitable.

Determination

43. 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.
44. 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.
45. The Tribunal needs then to consider whether this need adjusting to reflect any disrepair or any other defects which were not the responsibility of the tenant or his predecessor in title to remedy and also any improvements which the tenant has carried out.
46. The tribunal has been provided with little evidence on which to make its decision beyond the two properties for let as supplied by Mr Patel at £1475 and £1550. It places some weight on these but these are asking rents and there is no evidence of letting rents. It places no weight on the Zoopla estimate of the rent range for the subject property.
47. Therefore, it is required to use its skill and knowledge and in doing so the tribunal determines that the market rent for the property in good condition is **£1350** per month.
48. The Tribunal then needs to consider whether this need adjusting to reflect any improvements made by the tenant and any 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.
49. The tribunal notes the list of defects as issued by Watford Borough Council following their inspection in December 2020. It does not accept the inference made by Mr Patel that the council not upholding the complaints was reflective of a decision that they were not issues. It

is very clear from the e-mail from the Environmental Health Officer (as supplied by Mr Patel) that the reason they closed their file was because the tenants had vacated the property.

50. It also is clear from both parties that the landlords were very keen to regain possession of the property from May 2020 onwards and there was little – if any- incentive for the landlords to correct the defects and in fact they did not appear to do any work between the complaint being made and the tenants vacating. The tribunal was sent several e mails chains which purported to show that attempts had been made to access the property over this period - but they do not do so.
51. This appears to be a property which was allowed to fall into a poor state but one that the landlords anticipated the tenants would tolerate until such time as they required possession. The tribunal is of the opinion that the rent would not exceed the rent that was passing of £950 per month and finds that to be the market rent in its existing state

**Mary 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).