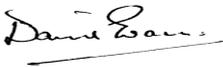


Notice of the Rent Assessment Committee Decision and Register of Rents under Assured Periodic Tenancies (Section 14 Determination)

Housing Act 1988 Section 14

Address of Premises		The Committee members were	
455 Cowbridge Road West, Ely, Cardiff, CF5 5TF		David Evans LLB LLM John Singleton BSc MRICS	
Landlord	Mr Ian Gaughan		
Address	c/o Mr Homes Estate Agents Ltd, 36 Caerau Lane, Caerau, Cardiff, CF5 5HQ		
Tenant	Mr Gabriel Strange and Ms Christina Wood		
1. The rent is:	£575	Per	Calendar Month (excluding water rates & council tax but including any amounts in paras 3&4)
2. The date the decision takes effect is:	20 th April 2015		
*3. The amount included for services is	nil	Per	
*4. Services charges are variable and are not included			
5. Date assured tenancy commenced	20 th November 2012		
6. Length of the term or rental period	Initial Term – 6 months		
7. Allocation of liability for repairs	As per S.11 Landlord and Tenant Act 1985		
8. Furniture provided by landlord or superior landlord			
White goods, wooden table, four chairs, TV stand, 2 book cases, desk and Hi Fi Mini system, dressing table, chest of drawers, mirror.			
9. Description of premises			
2 Bedroom Terraced house with garage			
Signed by the Chairman of the Rent Assessment Committee.	Date of Decision	29 th April 2015	
			

Y TRIBIWNLYS EIDDO PRESWYL
RESIDENTIAL PROPERTY TRIBUNAL
RENT ASSESSMENT COMMITTEE
(Housing Act 1988)

Reference: RAC/0040/03/15

PROPERTY: 455 Cowbridge Road West Cardiff CF5 5TF

LANDLORD: Mr Ian Gaughan

TENANTS: Mr Gabriel Strange and Ms Christina Wood

COMMITTEE: D J Evans LLB LLM
John Singleton BSc MRICS

REASONS FOR THE DECISION OF THE RENT ASSESSMENT COMMITTEE

INTRODUCTION

1. We convened as a Rent Assessment Committee under the provisions of the Housing Act 1988 (the Act) on the 29th April 2015 at the Tribunal Offices, Southgate House, Wood Street, Cardiff. We had before us an application in respect of 455 Cowbridge Road West, Cardiff CF5 5TF (the Property). On the 20th November 2012 the Landlord, Mr Ian Gaughan, had granted the Tenants, Mr Gabriel Strange and Ms Christina Wood, an Assured Shorthold Tenancy of the Property for an initial term of 6 months with effect from that date an initial rent of £600 per calendar month.
2. On the 24th February 2015, the Landlord's agent, Mr Homes, served on the Tenants a notice increasing the rent from £600 pcm to £625 pcm. The new rent was to be effective from the 20th April 2015. On the 4th March 2015, the Tenants referred the notice to us. No issue has been raised by either party relating to either the notices or the Committee's jurisdiction. The only issue for us to determine is the amount of rent payable from the 20th April 2015. Before considering the matter, we visited the Property. Mr Strange was present and we were able to inspect both internally and externally. Neither the Landlord nor his agent attended.

INSPECTION

3. The Property is a two bedroom mid terrace house located on the busy main route out of Cardiff westward to the Vale of Glamorgan, the out of town shopping complexes at Culverhouse Cross and the M4 access road in the area of Cardiff generally referred to as Ely. It has two storeys. The original house is of single brick construction with painted rendering to the front and a pitched, tiled roof. There is a small paved front garden which sets the house back slightly from the road. A front porch has been added and a flat roofed kitchen extension at the back with a bathroom (again, flat roofed) above part of the kitchen. The extension takes up almost all of what would have been a small back garden. The wrought iron fence on top of the block wall is in need of attention. The back walls are spar rendered and painted. The windows are double glazed and there is gas fired central heating. At the back of the house is a lane used for both vehicular and pedestrian access by the residents of the terrace and across the lane is a metal sheeted garage

with an inspection pit and lighting. Behind the garage is a small area of paved garden which in theory belongs to the property but which is accessed by a narrow lane alongside the garage. The garden is not particularly attractive. It is obscured from the Property by the garage, itself not a particularly attractive feature. In our view, in this particular case, neither the garage nor the small area of garden adds significantly to the rental value of the Property.

4. Internally, there is large living/dining room as well as the substantial kitchen with a tongue and grooved ceiling and units including a ceramic hob and white goods provided by the Landlord. The living/dining room was fairly dark due to the restricted access for natural light. Upstairs there are two double bedrooms and a bathroom which contains a bath with a shower over as well as a toilet and wash hand basin. The carpets, curtains and blinds were provided by the Landlord although a couple of these had failed and were no longer in use. The Landlord has provided some furniture and the Tenants have provided the rest.
5. We were told that there was occasional water ingress from the flat roof, but we were unable to verify this. There is access from the rear bedroom onto the kitchen flat roof but, although there is a wrought iron fence in place, the Tenants have been instructed not to use it.

REPRESENTATIONS

6. Both parties had informed us that they did not require a hearing and provided us with their written representations. In its letter dated the 10th March 2015, the Landlord's agent argues that:
 - a) there has been no increase in the rent since November 2012;
 - b) evidence from Rightmove indicates that since 20th November 2012 there have been 35 2 bedroom properties within a 1 mile radius of the Property that have been let rent of £625 or more - a list of 40 properties was appended giving brief (and often incomplete) information concerning properties marketed between 20th November 2012 and 25th February 2015;
 - c) there is a garage included in the tenancy but no additional rent has been charged for it;
 - d) certain items of furniture have been included.
7. In their response dated the 12th March 2015, the Tenants state that:
 - a) the list of properties seems to comprise only properties let by Mr Homes and covers the entire CF5 area including fully and part furnished properties;
 - b) they have appended details of a number of 2 bedroom unfurnished properties from different rental agencies in the CF5 5TF postcode area, its immediately surrounding post code areas and within one mile of the Property. The average rental is £568.75 pcm. They have also appended a sheet listing properties in the CF5 post code area which have an average rental of £584.20 pcm. In their view, the proposed rent of £600 pcm does not reflect current values for properties in the immediate area of the Property;
 - c) there are certain repair issues;
 - d) the Property is on a busy main road;

In a letter dated the 17th March, the Tenants made further points:

- e) many of the properties listed by Mr Homes were rented nearly 2 years ago with some over 3 years ago, some were end of terrace houses and all are located away from Cowbridge Road West. The graph provided by Mr Homes showed an average rental for properties in the CF5

post code area of £615 pcm. This includes fully furnished properties. Some of the properties are rented at £600 pcm.

- f) the garage cannot be rented separately from the house as it is attached to the garden and the electricity supply is taken from the Property;
 - g) white goods are generally included even in unfurnished accommodation. So little furniture is provided that the Property cannot be called furnished;
 - h) the fencing on one side of the garden is missing. The garden is not therefore enclosed;
 - i) the veranda is unsafe and cannot be used. This was one of the attractions of the Property and why the Tenants had agreed to pay more than the Local Housing Allowance.
8. Mr Homes made further comments in a letter dated the 19th March 2015 justifying its use of Rightmove and stating that any repair issues notified have been dealt with. It also attached a copy of an e-mail from Mr Strange stating that the increase “seems reasonable”

EVIDENCE

9. We are required under the Act to determine the rent at which we consider that the Property “might reasonably be expected to be let in the open market by a willing landlord under an assured tenancy” (section 14(1) of the Act). We are required to ignore a tenant’s improvements. We are also unable to consider the personal circumstances of the parties. We must consider the Property in its current condition and on the basis of the furniture provided.
10. When determining the rent, we consider all the evidence submitted by the parties, particularly the evidence relating to similar properties within the area, properties having similar facilities and properties where tenants are paying similar rents to those proposed by the Landlord. This is not, of course an exhaustive list, as each case depends on its own facts. The evidence presented should therefore be directed towards assisting the Committee by selecting as comparables those properties which are relevant. Ideally, of course, comparables should be cases where rents have been agreed or determined. We appreciate that this is not always possible and that asking rents may be the only evidence available in some cases. Likewise the condition of the various properties may be unknown. In this case, many of the properties were marketed by Mr Homes. It would have been simple enough to provide details of the properties, their condition and the rents achieved. However, the supply of thumbnail sketches of 40 properties such as those provided on behalf of the Landlord is not satisfactory. Many are over two years’ old. The parameters chosen appear to be from £675 pcm to £600 pcm with no reference to properties at rents below £600 pcm. None of the addresses were given making it difficult to identify the actual properties, a situation not helped by the provision of a photograph of one of the rooms and not the outside. Some had no details and in other cases the details were cut short. We appreciate that Mr Homes is a substantial letting agent in the area dealing with a large number of properties to let, but if it wishes to be regarded by this Committee as a being a professional witness on the basis of its “integrity, impeccable reputation, awareness and knowledge of the market conditions” (see its letter of the 19th March, 2015) it must recognise that it has a duty to this Committee which over-rides its duty to its client and that involves providing the Committee with comparable evidence which is not always helpful to its client. It may, of course, legitimately seek to argue that other evidence is preferable, but the Committee must be given that evidence. The Tenants’ comparables are more focussed. We reject Mr Homes’ implication that they are of less value as evidence because to their “knowledge, the applicant is neither or has never been employed within this specific industry”.

11. We viewed the following:

- Properties in Drope - Coed Riglan Drive, Traherne Drive, Jestyn Close, Nant y Rhos, Coed Arhyd, Nant y Plac - This is a modern, well laid out estate, with open spaces near-by, removed from the noise and traffic of Cowbridge Road West. The houses are attractively designed and appeared from the kerb to be in good condition. The rents stated (whether they are the asking rents or the actual rents, we cannot say) vary from £600 to £675. From their location and design, they would undoubtedly attract substantially higher rents than the Property. The properties in Nant y Plac appeared to be smaller than the others which may well account for the lower rent of £600 pcm (in 2013).
- Properties in Falconwood Drive - Again, some way from Cowbridge Road West, this road leads into Nant y Rhos. It is a modern housing estate with open spaces and some local amenities near-by. It will again attract substantially higher rents than the Property (£625 to £675 pcm) on account of their location and design.
- Properties in Westfield Park - Whinberry Way, Vervain Close, Yarrow Close - Another area of modern housing away from Cowbridge Road West. Once again, the properties here would naturally attract higher rents than the Property (£625 pcm) due to their location and design.
- Lauriston Park, Caerau - Another modern housing estate, well removed from Cowbridge Road West. Again the rents (£625/£630 pcm) reflect the better location and design of the houses than those of the Property.
- Parc y Gwenfo - Heol Collen, Heol Draenen Wen - This modern development is located on the other side of the M4 Link Road from Ely. The property in Heol Collen was stated as having been to let at £625 pcm. It was described in October 2013 as being "well presented in a lovely quiet street" with a lounge, fitted kitchen and 2 double bedrooms. The property in Heol Draenen Wen, available in March 2015, is stated as having one double bedroom and one single. This may account for the lower asking rent of £525.
- Aberthaw Road - One 2 bedroom terraced house and the other an end of terrace house in a quiet road. Both have off street parking in their front gardens (the latter for 2 cars) as well as enclosed back gardens. The descriptions suggest that there is a living room and a kitchen downstairs. Both properties were marketed at £600 pcm, the one in December 2013 and the other in May 2014. In our view the location and the convenient off street parking as well as the back gardens more than compensate for the "through room" lounge/dining area arrangement in the Property.
- Deere Road - As no picture was available, we were not able to identify this property.
- Stanway Road - This property is stated as being a bungalow and we there did not consider it to be an appropriate comparable.
- Caerwent Road - We did not view this property. It is described as a 2 bedroom semi-detached property, but no details are provided as to the accommodation. The property was being marketed in April/May 2014 at £625 pcm. Its better location and the fact of its being semi-detached would command a higher rent than the Property.
- Bishopston Road - A semi-detached house with off street parking and a garage. It is stated as being newly refurbished. It appeared to us to provide better quality accommodation than the Property. It would be bound to be a more attractive proposition. The asking rent was £650 pcm.
- Deere Place - A 2 bedroom mid-terraced house with a conservatory and off street parking in a quiet cul-de-sac. The proposed rent is £133 pw (£576 pcm). From the brief particulars, the Property probably has larger living space, but this is, in our view, in a much more attractive location and has the benefit of a conservatory.
- Greenfarm Road - A 2 bedroom mid-terrace property with off street parking and a rear garden. Although it is situated on an access route between St Fagans and Cowbridge Road

West, it is nowhere near as busy as Cowbridge Road West. It also has the benefit of open space opposite. It was for rent from July to September 2014 at £625 pcm.

- Redhouse Close - A 2 bedroom semi-detached house in a quiet close. It has 2 reception rooms and off street parking. It is marketed at £550 pcm.
- Narberth Road - A 2 bedroom mid-terrace house in a quiet road with on-site parking and a south facing rear garden. The asking rent is £600 pcm.
- Cowbridge Road West - Two terraced properties a short distance from the Property. They both front onto the pavement. One has two reception rooms downstairs, a double bedroom and a single bedroom. There is also a rear garden and off street parking at the rear. This property was let in 27 days in April 2014 at £500 pcm. The other has a lounge and an open plan kitchen/dining room. However it has 2 double bedrooms and an additional downstairs toilet as well as off street parking at the rear. There is no mention in the particulars of a garden. This property was placed on the market in April/May 2014 at an asking rent of £600 pcm, the asking rent no doubt reflecting the additional size of the second bedroom as well as the extra toilet. It was eventually let in July 2014 at £575.

CONSIDERATION

12. Apart from the two properties in Cowbridge Road West, there are two principal categories of property that emerge from the lists provided by the parties: modern private houses and former council houses. Of those submitted by Mr Homes, very few were recently marketed. Falconwood Drive (£675 pcm in February 2015), Coed Riglan (£645 and £650 in January/February 2015 and in September/October 2014), Lauriston Park (£625 in October/November 2014) are all modern houses on private developments. They are better located, away from the traffic noise, and their rents (£625 - £675) are indicative of their location and design. They are bound to attract significantly higher rents than the Property. In the Tenants' list produced in March 2015 indicate a property in Lauriston Park was available at £600 pcm and one in Westfield Park at £595. Again we consider that both these modern, better located properties would attract higher rents than the Property. We appreciate that the Property has a large, if somewhat dark, living/dining area and a big kitchen, but its location on an extremely busy main road, its outlook and its general lack of "kerb appeal" puts it at a clear disadvantage when compared with the houses on the modern developments. Neither the garden area behind the garage nor the garage itself adds significantly to the amenity of the Property. Many tenants prefer the convenience of a drive rather than a garage. The furniture provided by the Landlords does not materially add to the rental value.

13. Mr Homes also lists a property in Bishopston Road. This is a semi-detached house with a garage and off street parking for two cars. It has a front and back garden and whilst it is located by a roundabout on a main route through the housing estate, it is relatively quiet compared with Cowbridge Road West. Marketed from January 2015 at £650 pcm, it is again bound to attract a significantly higher rent than the Property. Similarly, the property in Greenfarm Road, marketed from July 2014 to September 2014 at £625 (without white goods), with its open aspect, off street parking, quieter location and back garden, would be a more attractive proposition than the Property justifying a higher rent. We cannot comment upon Deere Road as we were unable to identify it, but it is noticeable that it was on the market for 6 months (March to September 2014) at £600 pcm. It is stated as being a two bedroom semi-detached property with a large garden. Deere Road is a quieter road than Cowbridge Road West and again this property would command a higher rent than the Property. In our view, the same also applies to the other properties in the Tenants' list - Deere Place (£576 pcm) and Narberth Road (£600 pcm) are both better located on quiet roads and have gardens and off street parking, whilst Redhouse Close (£550 pcm) is a semi-detached with 2 reception rooms as well as a large garden, again in a quiet

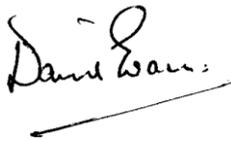
close. This last represents much better value for the accommodation provided than the Property at the Landlord's proposed rent of £625.

14. The two properties on Cowbridge Road West were let in April and July 2014 at £500 and £575 respectively. Without better information, it is difficult to compare these both with each other and with the Property. Doing the best we can on the basis of the information provided and from our external kerbside inspection, we have concluded that the latter property at £575 pcm with two double bedrooms as well as the additional toilet downstairs is bigger than the former (at £500 pcm). We also note that the latter was originally on the market at £600 pcm but it did not achieve the asking rent having been on the market for nearly three months.
15. We have concluded that the proposed rent of £625 pcm is not a rent at which the Property can reasonably be let in the open market by a willing landlord under an assured tenancy. With better designed and better located modern houses having been marketed at between £625 and £675 pcm in late 2014 and early 2015 and with two such houses (Lauriston Park and Westfield Park) more recently being marketed at £595/£600 pcm, a prospective tenant would not be willing to pay £625 pcm for the Property. Our view is supported by the rents being asked in respect of the former Council properties in Deere Place (£576 pcm), Narberth Road (£600 pcm) and Redhouse Close (£550 pcm). The properties in Bishopston Road (£650 pcm) and Greenfarm Road (£625 pcm) are both better properties and better located. These also confirm our view that the proposed rent of £625 pcm for the Property is too high.
16. The question is then at what rent would the Property reasonably be expected to be let in the open market by a willing Landlord. One of the Cowbridge Road West properties was let at £500 pcm in April 2014. No explanation has been provided by either party as to why the rent is significantly less than the rents of other properties in the area. We have surmised that the smaller second bedroom may be a factor. There may be other reasons, possibly the necessity for an urgent letting. As the rent is significantly lower than the rents achieved (or, as the case may be, the asking rents) for other two bedroom terraced properties in the area we feel able to disregard it as a comparable. The other property in Cowbridge Road West (£575 pcm in July 2014) is more in line with what is being achieved or marketed elsewhere in the locality relative to the location and design of those properties. It is true that this property fronts directly onto the pavement. However, it has broadly comparable accommodation. It may be that the term "open plan dining/kitchen" indicates something a little smaller than the Property's lounge/dining room, but often these things are a matter of taste and do not necessarily reflect any difference in value. The provision of a car parking space as opposed the Property's garage might also be seen by some as an advantage. As already indicated, we do not consider the garden area behind the garage to be significant, nor the furniture which the Landlord has provided. In our view, this property is broadly comparable with the Property. It gives an indication as to the sort of rent the market will pay. Looking at Mr Homes' list of properties, there appears to be very little movement in rents between 2014 and 2015. We therefore conclude that the rent at which the Property could reasonably be let by a willing Landlord is £575 pcm.

DETERMINATION

17. WE DETERMINE that the rent at which the Property might reasonably be expected to be let in the open market by a willing landlord is £575 per calendar month. This Decision is effective from the 20th April 2015, the date specified in the Landlord's notice of increase.

DATED this 13th day of May 2015

A handwritten signature in black ink, appearing to read "David Evans", with a horizontal line drawn underneath it.

CHAIRMAN/CADEIRYDD