

DECISION OF RENT ASSESSMENT COMMITTEE
SECTION 13(4) OF THE HOUSING ACT 1988 (as amended)

RAC/0023/03/16 – Lugg View

Property: 52 Lugg View, Presteigne, Powys, LD8 2DG

Applicant: Mr A Stephens

Respondent: Mid-Wales Housing Association Ltd

The Committee: Chairman : J. Rostron
Valuer Member : N Martindale FRICS

Preliminary

1. The Applicant applied on 11 March 2016 to the Rent Assessment Committee (“RAC”) under Section 13(4) of the Housing Act 1988 (“the 1988 Act”) for a determination of the open market rent of the property.
2. The Applicant had received a notice (“the Notice”) from the Respondent dated 24 February 2016 proposing a new rent of £90.27 per week including service charges in place of the existing rent of £67.08 per week including service charges. The proposed rent took effect from Monday 4 April 2016. The assured periodic tenancy commenced on Friday 10 October 2014.
3. Such applications are approached in two stages; first does the committee have jurisdiction and secondly, what is the valuation. The first stage requires consideration of the validity of the application. If the application is not valid it is not necessary to proceed to a determination of the market rent valuation.

Inspection

4. The Committee including the Respondents representative Mr C A Brotherton Director of Finance, met at the property at 10.00am on 10 May 2016. The Applicant was not at home and it was not possible to enter the property as no one else was there. It was only possible to carry out an external inspection.
5. The property which appeared to be approximately 20 – 30 years old consists of a ground floor flat. It is part of a block of four flats. Constructed of brick, concrete roof tiles and upvc window frames and trim. A small narrow garden exists at the front of the property with a larger one at the rear. A shed is located in the rear garden. An off street parking bay for two cars is located adjacent to the gable end of the building.
6. It was not possible to carry out an internal inspection, but from the application form it states the property consists of; living room, two bedrooms, kitchen and

bathroom. The Respondents representative said that mains drainage, water supply and electricity was connected to the flat. He could not say if mains gas was connected.

7. The property is located on the outskirts of Presteigne which is a small market town in a rural setting. The town has the full range of amenities such as school, shops, doctors etc. and is within walking distance of the property,

Evidence

8. Written representations were submitted by both parties and copied to the other. The Applicant requested a hearing at which oral representations could be made. The Respondent agreed to attend a hearing.
9. The Applicant in their written representations indicated that they have always expected a slight increase in the rent when reviewed but feel a proposed rent increase of 25% is unfair. The Applicant considers the state of decoration when he moved in was poor and particularly considers the standard of tiling and fixture and fittings in the bathroom is substandard. He also states that other properties in the same street have had new kitchens fitted. The Applicant emphasises that he is a tradesman and the proposed large increase in rent is beyond his financial resources.
10. The Respondent provided the committee with its written representations copies of; letter dated 4 April 2016, written comments, landlords notice proposing a new rent under an assured period tenancy, a signed tenancy agreement and service charge statement. The details of the Respondents evidence are contained in the written comments which are dealt with under the headings; rent and service charge increases [2015/16 – 2016/17]; and section 13 application form – sections 4 [tenancy], section 5 [services] and section 8 [repairs]. The key factor causing the large increase in rent according to the written evidence usefully summarised in the letter of 4 April 2016 was...” the surplus/deficit calculation where a refund (surplus) in one year has been followed by a recovery (deficit) in the next. A review of the service charge in March 2016, following the issue of Rent Notice, determined the increase was too great, and therefore the overall charge has been reduced; reducing the total weekly charge from £90.27 to £81.67”.
11. At the hearing attended only by the Respondents representative with no attendance of the Applicant, further evidence was presented concerning; increases in the rent. Mr Brotherton said that rent and service charges for the year 2016 – 17 are now proposed as; £73.63 occupation rent and £2.92 service charge totalling a weekly rent of £76.55.
12. The hearing was held at the Memorial Hall, Station Road, Presteigne, LD8 2UG starting at 11.00 and finishing at 11.25.

The Law

13. Section 13(2) of the 1988 Act requires a Landlord seeking to increase the rent of an assured periodic tenancy to serve on the Tenant a notice in the prescribed form proposing a new rent to take effect at the beginning of a new period of the tenancy.
14. For the notice to be valid it must comply with various requirements set out in Section 13(2) of the 1988 Act as amended by the Regulatory Reform (Assured Periodic Tenancies) (Rent Increases) Order 2003.
15. If the notice is valid, Section 14 of the 1988 Act requires the Committee to determine the rent at which it considers the property might reasonably be let in the open market by a willing Landlord under an assured tenancy and in so doing the Committee must disregard the effect on the rental value of any relevant Tenants improvements.
16. Section 13(2) of the 1988 Act confirms (amongst other things) the start date for the proposed new rent must not be earlier than
“(c) if the rent under the tenancy has previously been increased
(ii) the appropriate date”
17. The appropriate date is defined in Sections 13(3)A and 3(B) of the 1988 Act as being a minimum of 52 or 53 weeks after any previous rent increase.
18. Section 13(1)(b) explains the jurisdiction ...” This section applies to – any other periodic tenancy which is an assured tenancy, other than one in relation to which there is provision, for the time being binding upon the Tenant, under which the rent for a particular period of the tenancy, will or may be greater than the rent for an earlier period”.

The Committee’s Reasons and Determination

19. The Committee had first to determine whether the Notice was valid under Section 13(2) of the 1988 Act.
20. The Notice was considered by the Committee to be invalid. It was considered invalid because the start date for the new rent is a Monday and the tenancy commenced on a Friday as stated above in paragraph 2. As the periodic tenancy is weekly the proposed rent increase must start on a Friday.
21. From the evidence before it and using its own skill and judgement the Committee decided it did not have jurisdiction to make a determination of the rent in this case.

The Decision

22. The Committee having given due consideration to all of the above matters determined it did not have jurisdiction to determine the rent because of the requirements of section 13(2) of the Housing Act 1988.

Dated this 24th day of May 2016

A handwritten signature in black ink, appearing to be 'J Rostron', written in a cursive style.

J Rostron
Chairman of the Rent Assessment Committee