

**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

68 Greenwood Road, Baglan

The Committee members were

Rhys Taylor
Roger BaynhamLandlord
Addressc/o Paynton Jewell Caines, 5c Penybont Road
Pencoed CF35 5PY

Tenant

Marcin & Agnieszka Maciak

1. The rent
is:

510

Per

month

(excluding water rates & council tax
but including any amounts in paras
3&4)2. The date the decision takes
effect is:

29 September 2017

*3. The amount included for
services is

na

Per

na

*4. Services charges are variable and are not included

5. Date assured tenancy
commenced

14 December 2011

6. Length of the term or rental
period

AST 6 months, then periodic

7. Allocation of liability for
repairs

Landlord

8. Furniture provided by landlord or superior landlord

Nil

9. Description of premises

Semi detached house with 2 living rooms, kitchen, 3 bedrooms and a bathroom

Signed by the Chairman of the
Rent Assessment Committee.

Date of Decision 29.9.17

Y Tribiwnlys Eiddo Preswyl
Residential Property Tribunal Service (Wales)
Rent Assessment Committee (Wales)

First Floor, West Wing, Southgate House, Wood Street, Cardiff. CF10 1EW.
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DECISION AND REASONS OF RENT ASSESSMENT COMMITTEE (WALES)
HOUSING ACT 1988 s.13 &14 ("The Act")

Premises: 68 Greenwood Road, Baglan ("the property")

Ref: RAC/0003/06/17 68 Greenwood Road

Determination: 29 September 2017

Applicant: Mr Marcin Maciak (on behalf of himself & Agnieszka Maciak)

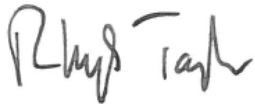
Respondent: Julia Sullivan, represented by Payton, Jewell, Caines (Mrs Hawkins)

Tribunal: Rhys Taylor – legal chairman
Roger Baynham FRICS

ORDER

1. The rent shall be £510 per calendar month, to commence from 29 September 2017.

29 September 2017

A handwritten signature in black ink, appearing to read 'Rhys Taylor'. The signature is written in a cursive, slightly slanted style.

Lawyer Chairman

REASONS

Background.

1. This application concerns the Applicant's challenge of a s.13(2) Housing Act 1988 ("the Act") notice of proposed rent increase, served on behalf of the Respondent dated 31 May 2017. The notice proposed an increase in rent from £475 to £495 pcm from 14 July 2017.
2. The background to this matter is that an assured shorthold tenancy was commenced on 14 December 2011 for a term of 6 months, at a rent of £475 pcm. Upon the expiry of the fixed term, the tenancy became a periodic tenancy on similar terms to the assured tenancy. There has been no rent increase since that date.
3. s.5(3) of the Act sets out how the periodic tenancy takes effect and states at s.5(3)(d) that, "... the periods of the tenancy are the same as those for which the rent was last payable under the fixed term tenancy." This would mean that, in this case, the periodic tenancy would have run from the 14th of the month on a calendar month basis.
4. For a s.13(2) notice to be valid it must comply with certain requirements set out therein, which includes that the notice must be "... in the prescribed form proposing a new rent to take effect at the beginning of a new period of the tenancy specified in the notice."

Jurisdiction.

5. The committee had to carefully consider its jurisdiction in this matter, but we have concluded that we do have jurisdiction.
6. Following the Applicant's appeal to the committee, dated 14 June 2017, the Respondent's agent, Mrs Hawkins, a director of Payton, Jewell, Caines wrote to the committee stating, "Our landlord client has instructed us not to carry out the rent increase at this time." A letter was sent on behalf of the committee asking for clarification and the reply in an email dated 10 July 2017 was that "I can confirm that the next increase proposed is 14 December 2017. The increase is to be £10 per month to £485." No new notice has ever been served.
7. The Applicant stated he had emailed a reply to the committee on the 17 July 2017, albeit we only have an undated reply, but dated stamped received on the 19 July 2017 in which he states "At the moment we are happy to pay the rent at the same amount." The difference between the 17 July and 19 July is not material as both dates post date the coming into effect of the notice on the 14 July 2017.
8. We questioned whether the email from Mrs Hawkins dated 10 July 2017 had the effect of invalidating the s.13(2) notice upon the basis that that the parties had agreed "the rent should not be varied" pursuant to s.13(4)(b) of the Act. However, after having heard from each party we were satisfied, on the balance of probabilities, that there had been no oral or written agreement about not varying the rent prior to the 14 July 2017.

9. The Respondent had certainly proposed not to *increase* the rent as per the notice on the 14 July, but that is not the same as having agreed the rent was “not to be varied”. It was (theoretically, if unrealistically) open to the Applicant to say that the rent should be *decreased*. It was not until *after* the 14 July 2017 was there an indication that the Applicant was content to keep the rent as it was for the time being. Upon that basis we do not think there was any agreement, prior to the commencement of the new rental period, that the rent should not be varied and upon that basis the notice is live and we have jurisdiction to adjudicate upon it.
10. We note the unusual situation that the Respondent only now proposes a rent to start from 14 December 2017 but we are bound, but for undue hardship being suffered by the Applicant, to commence the rent from 14 July 2017, by reason of s.14(7) of the Act. However, we note that the parties may be able to come to some agreement about the start date. That does not alter the exercise we have to carry out.

Inspection.

11. The property comprises a semi-detached house, located in the Baglan area of Port Talbot and is within easy reach of local shops and other amenities.
12. The property was constructed approximately 70 years ago and is conventionally built with brick exterior walls, which have been cement rendered and a tiled roof. The windows are UPVC doubled glazed units and the property also has the benefit of full gas central heating.
13. The accommodation on the ground floor comprises an entrance porch, entrance hall with stairs leading to the first floor, living room, dining room, kitchen with (tired) base units, rear lobby and a WC with wash hand basin.
14. On the first floor there is a landing, two double bedrooms, a single bedroom and a bathroom having a bath with electric shower over, wash hand basin and a WC. The bathroom walls are fully tiled.
15. The generously proportioned front garden is laid in lawn with a concrete path and steps leading to the front door and side pedestrian access. There is no onsite parking. The rear garden is of good size and consists of a hard standing area and grassed areas. There are two greenhouses, a garden shed, and a block built outhouse.
16. The property has been maintained to an acceptable standard, although a number of the double glazed window units have blown as indicated in Ashley Lewis' property inspection report dated 5 April 2016 and, on inspection by us, there is evidence of damp in the rear dining room.
17. A report from Mike Thomas Building Services of 24 March 2016 “failed to reveal any excess moisture that could be attributed to rising dampness or penetrating dampness and that it would appear to be one of condensation.” Mr Thomas' report is not the end of the matter as Libra Energy & Estates Ltd, in a report 6 September 2017, identifies problems with external render which has resulted in high moisture level readings and general damp problems, aside from any lifestyle factors.

18. The Applicant was keen to impress on us the problems and inconvenience caused by these issues.

Comparables.

19. We were shown two comparables by the Respondent's agents, which we viewed externally. The first was at Lilac Grove near to the property. It rented for £525 by the Respondent's agents and was said to be in a poor internal condition, albeit that the exterior is of a more modern design. It also benefitted from off street parking.

20. The second comparable was Birch Road a very similar property to the subject property which has rented for £550 but has the benefit of off-street parking. The internal condition of the property is not known.

21. Mrs Hawkins stated that there is high rental demand in the Baglan area and that the well publicised macroeconomic issues relating to Tata Steel in Port Talbot had not damped the rental market. If anything it had increased demand for rents as employees of Tata were finding it hard to get mortgages. It was also noted that a variety of other professionals consider Baglan a desirable location to lived in.

22. It was suggested by Mrs Hawkins, albeit no particulars were supplied in evidence, that a "starting rent" nearby would be about £500 pcm for a 2 bedroom flat with off-street parking.

23. The Applicant did not supply any comparables for us to rely upon or to challenge Mrs Hawkins' comparables.

Determination of market rent.

24. There was a hearing where each side had an opportunity to address us. The Applicant was keen to emphasise the poor condition of the property, which made him believe that the property was not "worth" more than the current rent in its present condition. He accepted that if the problems were resolved the proposed rent in the notice would be a reasonable rate, albeit perhaps negotiable.

25. Mrs Hawkins stated that she considered the current market rent for the property in its existing condition was between £515 and £520 pcm. The notice of increase to £495 was made, in part, reflecting the history the parties' good relationship have as landlord and tenant and the fact that the Respondent recognises that there are issues with the property. However, these are issues very much personal to the parties and we do not consider that they would impact upon the market rent should the property be marketed afresh.

26. The committee accept that there are issues with this property. However, the committee emphasised that this was not the forum for the resolution of such disputes and we were concerned only with the market rent. The market could not be assumed to possess detailed knowledge of the issues with this property and we are of the view that a typical prospective assured shorthold tenant would not conduct any formal detailed survey to reveal the extent of the issues. To that extent the problems which have been identified probably have a more limited

impact upon the market rental value of the property than the Applicant would wish.


27. Overall, it is our view, given the issues which are obvious upon a visual inspection, that £520 pcm is a little on the high side. We consider that the market rent is £510 pcm for this property in this condition.

Undue Hardship

28. Having come to the conclusions we have, the rent increase is bound to apply from 14 July 2017, unless by virtue of s.14(7) of the Act we form the view that the Applicant will suffer undue hardship.

29. We do not propose to set out the Applicant's detailed financial circumstances in a document which will be published online. However, it is sufficient to say that the Applicant and his wife are on modest incomes, which are exhausted most months and they have no savings. They have two young children. We do consider that to backdate the increase to the 14 July 2017 would cause undue hardship here and upon that basis we do not consider it appropriate for the rent to start prior to the 29 September 2017 (the date of our determination). If the parties wish to determine a different start date, that is a matter for them.

Dated this 29th September 2017



Lawyer Chairman