


Rent Assessment Panel for Wales

Notice of the Rent Assessment Committee Decision		File Reference Number: RAC/0003/04/16
Address of Premises 38 Dan y Darren The Rise Llanbradach Caerphilly CF83 3PU	The Committee members were Richard Payne LLB M Phil Ruth Thomas MRICS	
(1) The Committee has decided that the rent for the above premises is: The new rent will be entered by the rent officer in the rent register.	£117.96 per calendar month (This amount excludes council tax and water rates but includes any amounts entered in boxes 3-5 below.)	
(2) The effective date is: The new rent will apply from this date.	29 th June 2016	
(3) The rent is not to be registered as variable.		
(4) The amount for services is:	n/a	
(5) The amount for fuel charges (excluding heating and lighting of common parts) not counting for rent allowance is:	n/a	
(6) The rent is not exempt from the maximum fair rent because of repairs or improvements carried out by the landlord.		
(7) Details (other than rent) where different from Rent Register entry: The tenant has a 50% share of the property. In the committees opinion the gross rent for the property would be £192.48.		
Date of decision: <u>29th June 2016</u>	 Chairman	
If the fair rent the Committee determined was higher than the maximum fair rent, the limit on fair rent increases may apply. If this is the case, the uncapped fair rent the committee determined is shown in box 8. This is shown for information purposes only and does not affect the rent payable.		
(8) The uncapped fair rent was:		

Y TRIBIWNLYS EIDDO PRESWYL
RESIDENTIAL PROPERTY TRIBUNAL
RENT ASSESSMENT COMMITTEE
(Rent Act 1977)

Reference: RAC/0003/04/16

Property: 38, Dan Y Darren, The Rise, Llanbradach, Caerphilly, CF83 3PU

Applicant: Mr R R Grace

Respondent: Melin Homes Limited

COMMITTEE: Richard Payne LLB MPhil
Ruth Thomas MRICS

REASONS FOR THE DECISION OF THE RENT ASSESSMENT COMMITTEE

The registered rent for 38, Dan Y Darren, The Rise, Llanbradach, Caerphilly, CF83 3PU (“the property”) is determined at £117.96 per calendar month.

The registration of the rent takes effect from 29th June 2016.

Background

1. On 20th November 2015, the Respondent applied under s.67 of the Rent Act 1977 (RA) for registration of a fair rent. The Respondent sought a new monthly rent of £119.07. The registered rent at the time of the application was £115.60 per calendar month, effective from 16th January 2014.
2. The Rent Officer determined a new registered rent of £122.40 per calendar month to take effect from 16 January 2016. The Applicant, via Shelter Cymru, objected to the registered rent by email to the Rent Officer dated 10th February 2016. The submissions made upon the Applicant’s behalf were that he did not consider the property to be a 2 bedroom property as the second room upstairs is not big enough to be deemed a bedroom. Reference was made to a recent decision in Wales regarding the bedroom tax whereby a bedroom which was 66 ft.² was not considered to be a bedroom as it was too small. The second bedroom in the property was said to be 64.24 ft.² and accordingly Mr Grace considers his property to be a one bed property. Further Mr Grace challenged the Rent Officer’s calculations and asked why a determination of £122.40 had been made per month when the landlord was asking for a rent increase to £119 per month.

3. The objection to the rent was made in time but owing to circumstances beyond the Applicant's control the Rent Officer did not refer the case to the tribunal until 13 April 2016. The Applicant further wrote to the tribunal pointing out that although this was a shared ownership house, the landlord has no expenses at all in relation to the property. Mr Grace pointed out that he has responsibility for all matters including repairs, insurance and council tax. He also pointed out that he installed and maintains the central heating at the property. Mr Grace was concerned that in the shared ownership section of the Rent Officer's calculation dated 13 January 2016 a minus adjustment of £14.40 had not only been entered twice but had been added to the gross rent figure of £216 after the equity had been deducted and he felt that there was a mistake in the calculations.
4. The landlords responded, indicating on 9 May 2016 that they did not want a hearing, nor did they want to send in any written representations or make any comments on the accuracy of the Rent Officer's documents. The Applicant did request a hearing.

The Inspection

5. The Committee inspected the property on 29th June 2016 in the presence of the Applicant. The Landlord had been notified of the date and time of the inspection but was not represented at the same.

Situation & Description

6. The property is a two-storey end of terrace dwelling constructed about mid 1980s with facing brick elevations under a concrete tile roof. The accommodation comprises an entrance lobby, leading straight into the living/dining room, with a door at the rear leading to the garden. The staircase to the first floor is open to the living room. The kitchen is located at the front, accessed off the living room. At the first floor, there is a small landing giving access to a bathroom, two bedrooms and an airing cupboard. The bathroom contains its original fittings of a bath, washbasin and WC. Externally there is a front garden incorporating a hardstanding for a vehicle, a side footpath and a rear garden. The rear garden slopes away from the property and is covered extensively by trees. Although we did not measure the gross internal floor area of the property, it is limited and the layout is quite restrictive and inflexible. It is typical of a two storey two bedroom starter home of its period.
7. The Committee took rough measurements of the smaller bedroom and found them to be approximately 4.8125 m² or 51.86 ft.² We emphasise that these are rough measurements and do not purport to be authoritative.

The Law

8. Section 70 of the RA 1977 sets out the factors to be considered when determining a fair rent. In particular we are required to have regard to the age, character, locality and state of repair of the property.

9. At the same time, s.70 requires us to disregard:
- The personal circumstances of the parties ;
 - Any disrepair or other defect attributable to a failure by the tenant under the terms of the tenancy; and
 - Any improvements carried out by the tenant, other than as required under the tenancy
10. We must also assume that the number of people seeking to become tenants of similar properties in the area on terms identical to the Applicant's tenancy (save as to rent) is not substantially greater than the number of such properties which are available to rent on such terms. In other words, we must make certain assumptions regarding scarcity and demand.
11. In addition, further regulation of Rent Act rents is provided by the Rent Acts (Maximum Fair Rent) Order 1999 ('the Maximum Fair Rent Order'), which places a cap on the permissible amount of the increase of a fair rent between one registration and the next. The cap is based upon the amount of increase in the Retail Prices Index between the dates of the two registrations.
12. In this case the ownership of the property is shared 50-50 between the landlord and the tenant. This gives rise to different adjustments to the equivalent fair rent depending upon repairing liability, any management, audit and insurance fees if appropriate as well as the tenant's equity share.
13. By virtue of section 72 of the RA 1977, the registration of the rent takes effect from the date when the Committee reached its decision.

Representations before the Committee.

14. As indicated previously, Melin Homes Ltd (Melin) did not wish to attend at the hearing or to make any further representations oral or written. The tribunal therefore heard from the Applicant alone. Mr Grace was concerned that the Rent Officer had assessed the rent at being more than the £119 a month that Melin were asking for. He was also concerned that the Rent Officer's assessment and calculation sheet had described the gross rent as being £216, that the equity was 50 and there was an adjustment for management and insurance paid by the landlord of £14.40 leaving the fair rent at £122.40. He felt that half of £216 is £108 and that is what the fair rent should have been, not £122.40.
15. The Applicant confirmed that in fact the Respondent does not pay anything towards the property. It does not pay insurance and fulfils no management functions at all and that had been the case since the commencement of his shared ownership and tenancy in 1985. In commenting upon the lack of any repairs or maintenance by Melin, he referred to an incident when he had a problem with a ballcock and contacted Melin who explained to him that they would not come and repair it as it was out of their geographical area. He confirmed that he pays all of the contents and buildings insurance

via a policy that he has with NatWest and that he has always been responsible for insurance. With regard to the second bedroom, he uses this for storage purposes and says that he believes that he should pay less as he does not believe it is large enough to be a bedroom.

16. With regard to the question of the market rent and any comparable properties, the Committee asked the Applicant about these matters but he professed that he did not really have knowledge of market rents and comparable properties. He said that it was his view that the Respondent had effectively had their share of the property free of charge because of the length of time of his tenancy, he felt that he had long since paid for both his share and Melin's share and considered that a rent freeze would be appropriate in the circumstances.

Assessment of the rent

17. The starting point in assessing a rent under s.70 of the RA 1977 is to establish the market rent for the property. To that rent, a number of adjustments are made, to reflect the requirements of s.70.
18. The Rent Officer had provided details of a number of monthly rents for 2 bed roomed properties with 3 other rooms with a range between £395 and £675. The latter however was for a property in Rhiwbina, a suburb of Cardiff. We reject that as an appropriate comparable and the next highest in the range for South Caerphilly was £550. We also note that the Applicant's property has only two rooms downstairs.
19. Considering all of the evidence and using our own skill and expertise, having regard to the size and location of the property, we consider that £425 per calendar month is the appropriate market rent. We do not consider that the second bedroom is realistically usable as a bedroom and we note the premises description on the "Application for Registration of Fair Rent" form used by the Respondent as "2 bed 4 person house".
20. Carpets and curtains would usually be provided by the landlord in a rented property. That was not the case here and we therefore deducted £20 per month from the market rent, to reflect this.
21. The kitchen was very small and basic as was the bathroom. Both retained original features and had not been modernised. Market rents today would reflect a higher standard of kitchen and bathroom facilities and we therefore deducted a further £40 per month (£20 for each) to reflect this. There was no double glazing in the property and we deduct a further £20 to reflect this. At the outset, there was no central heating in the property which was provided by the tenant. We disregard this tenant's improvement and therefore deduct a further £30 per month in relation to the lack of central heating. Therefore the total deductions from our starting point of £425 comprised £110 to leave an adjusted market rent of £315.
22. On the issue of scarcity, the Rent Officer had made a deduction of 20%, from an adjusted market rent of £360. We consider that whilst there is a level of scarcity for

properties of this nature in the locality that a deduction of 20% is too high and we consider that a deduction of 15% scarcity is more appropriate. This leaves a fair rent figure of £267.75.

23. As this is a shared ownership property we make further deductions to reflect the difference in terms between this tenancy and an assured tenancy. In this case it is the Applicant who is responsible for repairs and we therefore deduct a further 20% from the fair rent figure, namely £53.55 to reflect this. We make further adjustments to reflect that there is less management and administration to be carried out by the Respondent in a shared ownership property and we therefore deduct a further 5% of the fair rent, namely £13.39. Further since the Applicant pays the buildings insurance for the property we deduct a further monthly amount, in this case £8.33. These further adjustments relating to shared ownership amounted to £75.27, and when subtracted from the fair rent figure of £267.75, leave a gross rental figure of £192.48 per month.
24. From the gross rental figure we deduct 50% to reflect the equity stake owned by the Applicant, which provides a figure of £96.24. In order to find the fair rent we then add back the figures that have been deducted for management, administration and the insurance premium. This provides us with a fair rental figure of £117.96 per month.

Calculations

25. Applying our findings and conclusions, we determined the monthly rent as follows:

		£	£
Market Rent			425
Less Adjustments (if appropriate)			
Lack of Central Heating		30.00	
Carpets/Curtains		20.00	
Basic Kitchen/Bathroom		40.00	
Condition		0.00	
Double Glazing		20.00	
Other (specify)		<u>0.00</u>	
		<u>110.00</u>	
	Adjusted Market Rent		315.00
Deduct for Scarcity	15%	<u>47.25</u>	
Fair Rent (excluding services)			<u>267.75</u>
Deduct-			
Tenant's repairing liability		53.55	
Management/Administration		13.39	

Insurance Premium	8.33	
Gross Rent		192.48
Add back; Management/Administration	13.39	
Insurance Premium	8.33	
		<u>117.96</u>
Add services (if any)		<u>00.00</u>
Fair Rent		117.96

26. We calculated the Maximum Fair Rent using the present RPI as at the date of inspection of 261.4 and determined the MFR as being £125.00. We are to determine the fair rent as being the lowest figure of the MFR or our fair rent calculation. The MFR therefore does not apply in this case.

Conclusion

27. The fair rent for the property is therefore £117.96 per calendar month.

28. The registration of the rent takes effect from 29th June 2016, the date we reached our decision.

DATED this 21st day of July 2016



Richard Payne
CHAIRMAN