

Y TRIBIWNLYS EIDDO PRESWYL
RESIDENTIAL PROPERTY TRIBUNAL

Reference: RAC/0003/06/21

In the Matter of 27 Augusta Crescent, Penarth, CF64 5RL

In the matter of an Application under Section 13(4) Housing Act 1988

APPLICANT Brian Jones

RESPONDENT David Baker and Co

Summary of Decision

1. On 24th October 2021 the Tribunal determined a market rent of £700 per month to take effect from 1st July 2021.

Background

2. The case concerned the determination of a market rent for the subject property following a referral of the Landlord's notice of increase of rent by the Tenant pursuant to sections 13 and 14 Housing Act 1988.
3. On 25th May 2021 the Landlord served a notice under Section 13(2) of the Housing Act 1988 which proposed a new rent of £700 per month in place of the existing rent of £550 per month to take effect from 1st July 2021. The notice complied with the legal requirements.
4. The Tribunal received an application dated 10th June 2021 from the Tenant's Solicitor Christopher Simmonds under Section 13(4) (a) of the Housing Act 1988.
5. The matter was listed for a hearing and the hearing took place on 19th October 2021 via the Cloud Video Platform and was attended by Richard Baker (Managing Agent) on behalf of the Respondent and Christopher Simmonds (Solicitor) on behalf of the Applicant.

Inspection

6. Mr Andrew Weeks, the Tribunal Surveyor, inspected 27 Augusta Crescent, Penarth, CF64 5RL ("the Property") on 19th October 2021.

(1) The Property is a two bedroomed semi-detached bungalow.

(2) The Property comprises the following accommodation, a lounge, kitchen, two bedrooms, WC and bathroom. The kitchen is extremely dated and requires replacement in line with reasonable expectations of a tenant. It requires decoration particularly where a previous boiler has been removed. The bathroom is also dated and requires updating. The Property is basically structurally sound, but there are signs of some water ingress and the roof is due to be replaced. The property occupies a good sized plot comprising of front and rear garden driveway and garage. The Landlord pays the water rates for the property and for the cutting of the grass and trimming the hedges.

Applicant's Evidence

7. The Applicant did not provide any evidence to the Tribunal either orally, or in documentary form, other than a note setting out the increases in the rent from the start of the tenancy on 1st September 1994. The evidence presented on behalf of the Applicant was not challenged.

On behalf of the tenant Mr Simmonds relied upon the inspection of the Property by the Tribunal.

Respondent's Evidence

8. The Respondent provided a documented Rent Review conducted on 6th May 2021 including, where available, tenancy agreements and particulars of the relevant properties including photographs.

The square meterage of the Property is 73 sq m

Of particular relevance were the properties 6 Rudry Street, Penarth and 44 Grove Street, Penarth details of which are set out below from the Rent Review.

6 Rudry Street, Penarth

A two bedroom terraced house. Smaller and with smaller garden, no off road parking and no garage. In need of modernisation. Currently rented at £700 PCM on an unfurnished basis. All utilities are paid for by the tenant. Landlord is responsible for repairs and redecoration. Tenant responsible for maintenance of gardens and grounds. This tenancy is long standing, dating back to 2013. The most recent rent increase, to £700 PCM was in October 2019 and a review will be due again this October. 68 sq m.

44 Grove Street, Penarth

An un-modernised but well looked after two bedroom terraced property just off the town centre. Less off road parking and a very small garden. Has a garage but this is not included in the rental. Currently rented at £875.00 per calendar month (PCM) on an unfurnished basis. All utilities are paid for by the tenant. Landlord is responsible for repairs and redecoration. Tenants responsible for maintenance of gardens and grounds. 89 sq m.

In evidence Mr Baker stated that 44 Grove Street was renting for £200 - £300 less per month than if it were modernised. The property was in a much better location, nearer the town centre than the Property. The kitchen and bathroom were dated, but better than at the Property

6 Rudry Street was broadly similar to 44 Grove Street.

The Respondent's case was that the rental figure for the Property in its current condition would be £750 pcm - £800 pcm however in the circumstances a figure of £700 pcm was appropriate.

9. The Law

S14 Determination of Rent

(1) Where, under subsection (4) (a) of section 13 above, a tenant refers to the appropriate tribunal a notice under subsection (2) of that section, the tribunal shall determine the rent at which, subject to subsections (2) and (4) below, the tribunal consider that the dwelling-house concerned might reasonably be expected to be let in the open market by a willing landlord under an assured tenancy-

(a) which is a periodic tenancy 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 the rent) are the same as those of the tenancy to which the notice relates; and

(d) in respect of which the same notices, if any, have been given under any of Grounds 1 to 5 of Schedule 2 to this Act, as have been given (or have effect as if given) in relation to the tenancy to which the notice relates.

(2) In making a determination under this section, there shall be disregarded-

(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 carried out by a person who at the time it was carried out was the tenant, if the improvement-

(i) was carried out otherwise than in pursuance of an obligation to his immediate landlord, or

(ii) was carried out pursuant to an obligation to his immediate landlord being an obligation which did not relate to the specific improvement concerned but arose by reference to consent given to the carrying out of that improvement; and
(c) any reduction in the value of the dwelling-house attributable to a failure by the tenant to comply with any terms of the tenancy.

(3) For the purposes of subsection (2)(b) above, in relation to a notice which is referred by a tenant as mentioned in subsection (1) above, an improvement is a relevant improvement if either it was carried out during the tenancy to which the notice relates, or the following conditions are satisfied, namely-

(a) that it was carried out not more than twenty-one years before the date of service of the notice; and

(b) that, at all times during the period beginning when the improvement was carried out and ending on the date of service of the notice, the dwelling-house has been let under an assured tenancy; and

(c) that, on the coming to an end of an assured tenancy at any time during that period, the tenant (or, in the case of joint tenants, at least one of them) did not quit.

(4) In this section "rent" does not include any service charge, within the meaning of section 18 of the Landlord and Tenant Act 1985, but, subject to that, includes any sums payable by the tenant to the landlord on account of the use of furniture, in respect of council tax or for any of the matters referred to in subsection (1) (a) of that section, whether or not those sums are separate from the sums payable for the occupation.

Consideration and Valuation

10. The Tribunal is required to determine the rent at which the subject property might reasonably be expected to be let in the open market by a willing Landlord under an assured tenancy.
11. The Tribunal was assisted by the evidence provided by the Respondent who manage a number of properties in the locality. This evidence was not disputed and was accepted by the Tribunal.
12. Of the comparables before the Tribunal the most appropriate one is 44 Grove Street. 6 Rudry Street is of assistance, but the rental figure is out of date and subject to a forthcoming rent review. 44 Grove Street is currently rented at a figure of £875pcm. The Applicant accepted that it was achieving a rental reduction of £200 - £300 less per month because it was dated.
13. The Tribunal has the benefit of photographs of 44 Grove Street and is satisfied that although dated, 44 Grove Street is in a better overall condition than the Property and the kitchen and bathroom in particular are much better than at the Property. 44 Grove Street also has the benefit of a significantly better location.
14. 44 Grove Street does not benefit from off street parking and has no garage available to the tenant and has a smaller garden.

15. Due to the condition of the Property, and in particular the kitchen, the Property would not achieve the level of rent achieved by 44 Grove Street and would be extremely difficult to rent.
16. Any rental figure would have to reflect that and in the Tribunal's opinion a reduction in the open market rental value for the Property of at least £325 would have to be taken into account.
17. Having carefully considered the representations from the parties and associated correspondence and documentation and using its own judgement and knowledge of rental values in Penarth, the Tribunal is satisfied that the market rent for the subject property, if let today in a condition that was usual for such an open market letting, would be £1000 per month.
18. Taking into account the condition of the Property and the difficulty in letting it, the Tribunal is satisfied that the rent at which the subject property might reasonably be expected to be let in the open market by a willing landlord under the terms of this tenancy in its present condition was £700 per month.
19. The Tribunal directs that the new rent of £700 per month should take effect from 1st July 2021, this being the date in the original notice there being no evidence before the Tribunal that the tenant would be caused significant hardship if the rent were to commence at that date.

DATED this 22nd day of November 2021

AR Phillips

Tribunal Judge