

Y TRIBIWNLYS EIDDO PRESWYL  
RESIDENTIAL PROPERTY TRIBUNAL (WALES)  
LEASEHOLD VALUATION TRIBUNAL

Reference: RAC/0009/10/21

In the Matter of 12 Baneswell Courtyard, Newport NP20 1LD (the Property)

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

APPLICANTS James Nightingale

RESPONDENT Jonathan Griffiths

TRIBUNAL AVS Scott Chair  
R Baynham FRICS

**ORDER AND REASONS FOR THE DECISION OF TRIBUNAL**

**ORDER**

The Tribunal determined that the monthly rent for 12 Baneswell Courtyard from 17 January 2022 is £625.

**BACKGROUND**

1. We were duly convened as a Rent Assessment Committee under the provisions of the Housing Act 1988 (the Act). The Respondent had served a Notice on the Applicant pursuant to S13 (4) of the Act on 15 September 2021 proposing a new rent from 17 October 2021 of £645 per calendar month.
2. On 20 October 2021, a procedural Chairman gave directions for the parties to make submissions as to the level of rent proposed. The Applicant wrote a lengthy email dated 10 November 2021 referring to many historical problems he had had with the Property and with the Respondent since moving in. He also asserted that the Landlord was solely responsible for repairs, replacement and maintenance of the Property and there had been a complete lack of repair, replacement and maintenance by the Landlord. The Property was in a tired condition and had been for some time. In addition, the neighbourhood had become very run down. There was scaffolding on the church to the rear of the Property. The Applicant also asserted that the landlord had failed to protect an easement contained on the Property being illegally blocked every day by a bullying and intimidating neighbouring business. This was preventing the Applicant from having access to that side of the building and allowing the bullying to continue. This was spoiling his peace and enjoyment of the Property. This had affected his mental health and he was suffering from PTSD.
3. The Respondent wrote to the Tribunal with reasons why he considered the rent proposed to be correct. He referred to the existing rent as being £495. He had made enquires of agents Crook and Blight who had put the current market rent at £650-£700 per month. Number One Estate

Agent gave a rental valuation of £750. The Landlord had found 2-bedroom properties for rent on Zoopla at between £695 to £825.

4. On the morning of the hearing, the Applicant sent to the Committee an email with website links with evidence of what monthly rents two separate estate agents had requested for neighbouring properties within Baneswell Courtyard. Attached were screenshots from Overstreet with a reference to 2 bedroom houses to rent within Baneswell Courtyard for £525 and £495 per month. The Respondent commented that he had contacted the estate agents concerned who had confirmed that these were old adverts from several years ago.

#### **THE LAW**

5. Section 13 (2) of the Act requires a landlord seeking to increase the rent of an assured periodic tenancy to serve a Notice on the Applicant 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. This being a period beginning not earlier than the minimum period after the date of service of the Notice, such minimum period being, in the case of a tenancy where the period is less than a month, one month. A Notice will be valid if it complies with the provisions of Section 13(2) of the Act. The Committee found the Notice to be valid.
6. Section 14 of the Act requires the Committee to determine the rent which it considers the Property might reasonably be let in the open market by a willing landlord under an assured tenancy, disregarding the effect on the rental value of any of the Applicant's improvements. This was the only matter that the Committee had jurisdiction to determine.

#### **THE TENANCY AGREEMENT**

7. The Applicant entered into an Assured Tenancy Agreement with the Respondent on 24 October 2008 in respect of 12 Baneswell Courtyard at a rent of £520 per month. The terms of the tenancy agreement included a term that the Applicant was to keep the interior of the Property in a good and clean state and condition and not damage or injure the Property (fair wear and tear excepted), to yield up the Property at the end of the term in the same clean state and condition as it was in the beginning, and not to do any redecoration or painting of the Property without the landlord's prior written consent (such consent not to be unreasonably withheld).
8. The landlord's obligations under the tenancy agreement were to keep in repair the structure and exterior of the Property (including drains gutters and external pipes) and the utility installations.

#### **THE INSPECTION**

9. The Committee's surveyor attended and inspected the Property alone owing to Covid 19 restrictions on the morning of 18 January 2022. There was no attendance on or behalf of the Respondent who was aware of the inspection and the Tribunal received an email on 17 January 2022 stating that he would not be attending due to poor health. The Applicant was present.
10. The Property comprises a modern two storey semi-detached end of link house situated in a cul-de-sac on a private road of similar type houses. The house is conventionally constructed having brick exterior walls and a tiled roof and plastic rainwater goods. The windows and external doors are double glazed Upvc units. The accommodation on the ground floor consists of a living room having an open plan staircase to the first floor and a kitchen with adequate base and wall units. On the first floor there is a small landing, a double bedroom, a single bedroom and a bathroom with a bath having a shower over, wash hand basin and a w/c. There is no gas supply to the

property and space heating is by means of economy 7 night storage heaters and hot water is provided by an immersion heater.

11. The front and rear gardens, both of which are relatively small, are paved and enclosed by wooden fencing and a brick wall.
12. The Property would benefit from redecoration both internally and externally and a portion of the gutter to the rear needs attention as it is causing water to seep onto the exterior wall. The Applicant in his application stated that a bed, mattress and a bedroom wardrobe were supplied by the Respondent when he took occupation but at the inspection the surveyor was informed by the Applicant that the following items of furniture were also supplied by the Respondent in addition to the carpets, curtains and light fittings. Although the tenancy agreement in Clause 2.3 refers to an Inventory it does not appear that one was ever produced.

Living Room - Sofa and large bookshelf.

Kitchen - Washing machine and fridge

Bedroom 1 - Double bed and mattress, large wardrobe cupboard and 2 bedside cabinets.

Bedroom 2 - Single bed and mattress, bedside cabinet.

13. The Property is within easy reach of the centre of Newport where all facilities and amenities are available.

## **THE HEARING**

14. Both Applicant and Respondent attended a remote hearing to give evidence. The Applicant clarified that although the tenancy agreement referred to a monthly rent of £520, after moving in he had discovered another tenant with the same landlord was only paying £495 and the landlord agreed the Applicant could also pay this amount. The Applicant also asserted that it was his understanding that the Landlord was responsible for internal decorations. When asked why this should be the Landlord's responsibility, he said that nothing in the tenancy agreement said otherwise. He did not agree that clause 2.3 implied he was responsible, on his reading he had to obtain the Landlord's consent if he wanted to redecorate, not that he was responsible for doing so. He wanted to see a clause that said he was solely responsible for general maintenance. He had never been told he was responsible for any painting. He had asked the Landlord many times to carry out repainting.
15. The Applicant was also asked about the asserted easement. He said that no one could prove there was not an easement and this would have to go to court as a civil matter. He said that the Landlord was a director of Readychain, the property management company responsible for parking and maintenance within the courtyard. It was his view that anything to which the landlord was entitled to by virtue of his lease, then the Applicant was also entitled to.
16. The Applicant also told the Committee that he was in receipt of Employment and Support Allowance and Housing benefit, topped up by Discretionary Housing Benefit. Any increase in the rent may not be covered by the Discretionary Housing Benefit and if it was not, he would not be able to afford the rent.
17. The Respondent told the Committee that he owned 2 other properties within Baneswell Courtyard, No 5 and 11. He had put no. 11 on the market last year at what turned out to be too low a rent, he had proposed £625. He had many inquires but eventually accepted the first offer made of £625. Number 5 had been let several years ago at £585. It was the Respondent's position

that the Applicant was responsible for internal decoration. He denied Readychain was a property management company, it was set up to pay for the electricity for lighting in the courtyard and to pay for public liability insurance.

18. The Applicant did not accept that the Respondent's evidence of the letting for No 11 was the market rent.

#### **THE COMMITTEE'S DECISION**

19. So far as responsibility for internal decoration was concerned, the terms of the tenancy agreement referred to in paragraphs 7 and 8 above did not put this on the Respondent. The dispute between the parties as to this responsibility was not something that the Committee had jurisdiction to determine. Section 14 (2) (c) of the Act permitted the Committee to disregard any reduction in the open market rent attributable to a failure by the tenant to comply with the terms of the tenancy agreement.
20. The existence or otherwise of an easement next to the Property was not relevant, not being part of the tenancy agreement.
21. The Committee had evidence from 2 estate agents of the open market rent and also evidence of what the Respondent had been able to obtain for another property within Baneswell Courtyard. This was the most comparable evidence. There was certainly no evidence before the Committee which supported any open market rent of less than the figure of £625. There was evidence of higher rents, not lower. The Committee found the open market rent to be £625 per month.
22. Section 14(7) of the Act permitted the Committee to determine a later date for the increased rent to be payable than the one specified by the Respondent in his Notice if it would cause undue hardship to the Applicant. In view of the fact that the Tenant was in receipt of social security benefit due to ill health, the new rent would be payable from 17 January 2022.

Dated this 21<sup>st</sup> day of February 2022

AVS Scott  
Chair