

Y TRIBIWNLYS EIDDO PRESWYL
RESIDENTIAL PROPERTY TRIBUNAL (WALES)

RENT ASSESSMENT COMMITTEE
(Rent Act 1977)

Reference: RAC/0008/05/22

Property: 23 Astley Court, Kinmel Bay, Rhyl, LL18 5EZ.

Landlord: Clwyd Alyn Housing Association, 72 Ffordd William Morgan, St Asaph Business Park, St Asaph, Denbighshire, LL17 0JD.

Tenant: Mrs C M Ainley

COMMITTEE: J Rostron - Chairperson

T Daulby - Surveyor

REASONS FOR THE DECISION OF THE RENT ASSESSMENT COMMITTEE

INTRODUCTION

1. We were duly convened as a Rent Assessment Committee on 20 October 2022 at 23 Astley Court, Kinmel Bay, Rhyl. LL18 5EZ, the ['Property']. We had before us a reference from the Rent Officer. The Tenant objected to the rent certificate they had received, and requested the matter be referred to the Rent Assessment Committee for further determination.
2. An application to register a fair rent under the Rent Act 1977 was registered on the 6 May 2022 by the Rent Officer.
3. The application made by the Tenant contained a statement of case in an email dated 13 May 2022 to the Rent Officer which stated *inter alia* ..." I am writing further to letter dated 24th September 2021 where you advised me that my account was in arrears. It was my understanding that my rent charge was around £174 and never had any notification from Clwyd & Alyn to advise my rent had gone up to £191.51 and therefore account went into arrears. We have since cleared these arrears and now have a letter to advise my rent is now £227. This seems an excessive increase and would like to ask for you to look into this further..."
4. The rent registered by the Rent Officer was £227.00 per calendar month. The proposed rent being £296.14 per week. The rent was registered on the 6 May 2022, with an effective date being the same. The previous fair rent was £191.51 per calendar month but is not noted in the Rent Register. A service charge of £8.40 was registered on 14 November 2019. An email was sent by Rachel Turgoose of the Landlord to the Tribunal dated 7 June 2022 stating that the proposed rent of £296.14 was a mistake and it should have been £209.14 per calendar month.

INSPECTION

5. The inspection was carried out on 20 October 2022 by the Tribunal Surveyor in the company of the Tenant. The Property was inspected both internally and externally and a note of the general surroundings was also undertaken.
6. The Property comprises a one-bedroomed mid-terrace house situated on a residential development of similar age and style properties that are thought to have been constructed in the early 1980's.
7. The Property lies within close proximity to Kinmel Bay centre adjacent to the Asda Supermarket and within walking distance to a range of local shops and businesses. Kinmel Bay beach and foreshore are situated close by together with a large number of static caravan sites for which the area is noted.
8. The Property is constructed in a traditional manner from cavity brick walls beneath a timber framed pitched roof with tile cladding and is fitted with original double-glazed windows, a proprietary brand plastic rainwater fittings and timber fascia boards.
9. Internally the accommodation is arranged over two floors and provides a ground floor entrance hall, kitchen and living area with patio doors to the rear and an internal stair case leading to a single bedroom and family bathroom.
10. Small gardens are provided to the front laid with artificial grass and concrete base and there are further private gardens to the rear which are enclosed by means of privacy fencing.
11. The Property was found to be in an acceptable condition of repair commensurate with its age and type but dated compared to modern equivalents.

THE LAW

12. When determining a fair rent the Committee, in accordance with the Rent Act 1977, section 70;
 - i) has regard to all the circumstances (other than personal circumstances) including the age, location and state of repair of the property;
 - ii) disregards the effect on the rental value of the property of (a) any relevant tenant improvements and (b) any repair or any defect attributable to the tenant or any predecessor in title under the regulated tenancy;
 - iii) assumes (as required by s.70 (2) that, whatever might be the case, the demand for similar rented properties in the locality does not significantly exceed the supply of such properties for rent. In other words that the effect of any such 'scarcity' on rental values is not reflected in the fair rent of the subject property.
 - iv) 9. In Spath Holme Ltd v. Chairman of the Greater Manchester etc. Committee (1995) 28 HLR 107 and Curtis v. London Rent Assessment Committee [1999] QB 92 the Court of Appeal emphasised that section 70 means.
 - (a) that ordinarily a fair rent is the market rent for the subject property discounted for 'scarcity' and

(b) that for the purposes of determining the market rent, assured (market) rents are usually appropriate comparables. (These rents may have to be adjusted where necessary to reflect any relevant differences between those comparables and the subject property).

13. Thus, once the market rent for the Property has been determined by the exercise in (ii) above that rent must be adjusted, where necessary, for any scarcity.

HEARING AND DECISION

14. The hearing took place by video conferencing on 20 October 2022 at 2.00pm. It was not attended by the Tenant Mrs C M Ainsley or the Landlord Clwyd Alyn Housing Association.
15. The Tribunal noted the mistake described in paragraph 4 above which stated the Landlord had proposed rent of £296.14 per calendar month was an error, and it should have been £209.14 per calendar month.
16. The Rent Officer provided comparable rents for one bedroomed terraced and semi-detached houses ranging from £498.33 - £595.00 per calendar month. No addresses or dates were given. The Tribunal found the comparables unhelpful in the format presented.
17. The only written statement of case was that presented by the Tenant which is dealt with in paragraph 3 above. The Tribunal considered the statement made by the Tenant, but without comparable evidence being supplied found it of limited assistance.
18. The Tribunal noted from the Rent Officer's documentation that he registered the rent of £227.00 per calendar month, this being registered on the 6 May 2022. The Rent Officer calculated that the market rent would be £500.00 per calendar month and deducted £40 for lack of furniture, added £8.40 for services which produced a starting point rent of £468.40 per calendar month. From this was deducted 20% for scarcity producing a fair rent of £375.00 per calendar month. From this was deducted £20.00 for full repair liability, and £1.99 for management/insurance producing a gross rent of £292.88 from which 25% equity share (tenants' ownership) making a specified rent of £219.66 to which was added £8.00 for services/management/insurance producing a fair rent of £228.06 per calendar month.
19. The Rent Officer decided that any potential increase in rent due to improvements was less than 15% which meant the Rent Acts (Maximum Fair Rent) Order 1999 SI 1999/6 could be applied. The Rent Officer determined the rent under the Maximum Fair Rent Order to be £227.00 per calendar month which is less than the Fair Rent ascertained and therefore was applied.
20. The Committee considered the submissions relating to the Property. Using its skill and judgement and utilising its experience, the committee determined that the starting point Market Rent for a Property of this type in a similar locality would be: -

£500.00 per calendar month.

21. From the above market rent the Committee have made the following adjustments;

Market Rent per calendar month		<u>£.500.00</u>
Less adjustments		
Lack of Central Heating	£5.00	
Carpets /Curtains	£10.00	
Basic kitchen / Bathroom	£10.00	
Condition	£10.00	
Double Glazing	£5.00	
Repair 25%	£125.00	<u>£165.00</u>
Adjusted market rent		£335.00
Less 15 % Scarcity		
£50.25		
Fair Rent (Ex- Services)		£284.75
Less Equity Ownership @ 25%		£71.18
Fair Rent		£213.57
Services		£8.40
Fair Rent (rounded as appropriate)		£221.97
Say		<u>£222.00</u>

21. The Maximum Fair Rent Calculation is as follows;

RPI at last registration	285.10
RPI applicable	347.60
Enhancement factor	0.05
Last registered rent	£191.50
Maximum Fair Rent	£241.50

22. The Maximum Fair Rent Regulations do not apply and accordingly the Maximum Fair Rent is £222.00 per calendar month.

It is declared the Committee has decided the fair rent for the Property shall be £222.00 per calendar month from the 20 October 2022.

Dated this 9th day of November 2022

CHAIRMAN J Rostron