

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

Reference: RAC/0013/07/22

Property: 7 St. Clair Court, West Bute St, Butetown, Cardiff, CF10 5FT

Landlord: United Welsh Housing Association

Tenant: Ms. Erica Reed

Committee: Mr Tanveer Rakhim (Chairperson)
Mr Mark Taylor (Surveyor Member)

Decision of the Rent Assessment Committee

A fair rent of £126.78 per week was determined by the Committee on 16 November 2022 with effect from the same date.

Reasons for Decision

Background

1. This matter concerns a reference from the Rent Officers Wales in respect of 7 St. Clair Court, West Bute St, Butetown, Cardiff, CF10 5FT (“the Property”).
2. Since 29 June 1987 the Property has been rented by Ms. Erica Reed (the “Tenant”).
3. The previous rent, registered on 26 July 2019, had been £118.44 per week.
4. United Welsh Housing Association (the “Landlord”) proposed the rent of £111.24 per week. Rent Officers Wales assessed the rent as £123 per week on 7 June 2022. This was appealed by the Tenant by way of an email dated 20 June 2022 and the Tenant objected to the registration of the new rent.
5. Accordingly, the matter was referred to this Committee by the Rent Officer on 20 July 2022.

Inspection

6. An inspection of the Property was carried out by Mr Mark Taylor, the surveyor member, on the morning of the hearing (16 November 2022).
7. The Property is located at the southern end on West Bute Street close to its junction with James Street and is located in the heart of the Bay area in close proximity to amenities at Mermaid Quay and the Millennium Centre and Government buildings. It is a single bedroom flat on the first floor of a block of some 30 flats which was constructed in the 1980’s. There is an eight person passenger lift serving all floors. There is a car park and yard to the rear of the property, accessed from Ship Lane, with some 5 unallocated parking spaces.

8. The accommodation consists of a single double bedroom, open plan living/kitchen area, a bathroom with a bath, with a shower attachment, wash hand basin and low level flush WC. The shower screen to the bath has been provided by the Tenant. Generally, the property is decorated with painted and plastered walls with textured finish to the ceilings. There is partial tiling to the bathroom and kitchen areas. Floors are finished in a mixture of vinyl, wood laminate and carpets which have been provided by the Tenant. It had central heating and PVCu double glazed windows and composite fire rated front door are all provided. The Tenant has provided all white goods and furniture.
9. It was noted that the Property was in a good condition internally. However, the external parts including the common areas of the building were looking worn and dated, with the external access walk way showing algae staining and handrail deterioration, due in all likelihood from the rain water due to the rear roof being blocked

Representations

10. The papers before the Committee included the referral to the Committee, the Tenant's email objections of 20 June 2022, the Landlord's application to register the rent dated 1 August 2021 (with accompanying service charge breakdown), the Rent assessment dated 7 June 2022, the notification of the assessment to the parties, screen prints of the rent calculation, the Tenant's representations to the Committee dated 30 August 2022 and finally an email from the Landlord dated 14 September 2022.
11. The Tenant's objections were set out in her email of 20 June 2022. She took issue with the disparity between £111.24 being requested by her Landlord and the Rent Officer then assessing the rent in the increased sum of £123.00. She submitted, since the Landlord applied to register the rent 10 months prior, the cost of living had increased and she had been affected by this. She stated the rent was previously affordable and questioned where she would find an additional £50.00 per month if the Landlord chose to exercise their right in applying the assessed rent.
12. In advance of the hearing, the Committee received an email from Karen Thomas, Income and Money Advice Manager for the Landlord. She stated as follows:
"I can confirm that we have no submissions to make in respect of the tenant's appeal against the Rent Officer's determination. Whilst the Rent Officer has determined a rent of £123.00pw, we only in fact wish to apply the rent we requested of £111.24pw, which is in line with the rents applied to our Assured tenancies in the same block of flats."
13. At the hearing, the Tenant attended and was unrepresented. She was unaware of the Landlord's email and this was read out to her. The Tenant acknowledged the Landlord was agreeable to the £111.24 rent and the Tenant took no issue with this. She submitted her concern was that whilst the Rent Officer's assessed rent was not being adopted for the present, it could be adopted in the future. She was also unclear on the comparables used by the Rent Officer.
14. On behalf of the Landlord, Ms. Thomas who sent the above email attended and was accompanied by Ms. Yvonne Davies, a Rent Team Leader for the Landlord. Neither had anything to add to the email that had been sent in, but they reiterated that the Landlord would be happy to apply the rent at £111.24 per week irrespective of the Rent Officer's assessment. They noted the Rent Officer's assessment was higher and stated that would allow them to increase the rent during the next period of registration but assured the Tenant that any increase would be with a minimum of four weeks' notice and will not be applied retrospectively.

15. Neither party submitted market rent comparables, nor any evidence of market rent levels for the Tribunal to consider.
16. The parties understood that the Committee would make an assessment and this would be reflected in the register, but the actual rent payable is left between the parties to decide.

The Law

17. When determining a fair rent the Committee, in accordance with Section 70 of the Rent Act 1977 (“the Act”):
 - a. has regard to all the circumstances (other than personal circumstances) including the age, location and state of repair of the property;
 - b. disregards the effect on the rental value of the Property of (a) any relevant tenant improvements; and (b) any disrepair or other defect attributable to the tenant or any predecessor in title under the regulated tenancy;
 - c. assumes (as required by Section 70(2) of the Act) 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, the Committee must make certain assumptions regarding scarcity and demand for rental properties in the area.
18. 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 of the Act means:
 - d. that ordinarily a fair rent is the market rent for the subject property discounted for “scarcity”; and
 - e. that for the purposes of determining the market rent, assured tenancy (market) rents are usually appropriate comparables (although these rents may need to be adjusted to reflect any relevant differences between these comparables and the subject property (e.g. furnished and unfurnished)).
19. Accordingly, once the market rent for the Property has been determined pursuant to Section 70 of the Act, that rent must then be adjusted, where necessary, for any differences between the relevant comparables and scarcity.
20. The Committee is also required to have regard to the Rent Acts (Maximum Fair Rent) Order 1999 (the “Maximum Fair Rent Order”), which places a cap on the permissible amount of increase of fair rent between one registration and a subsequent registration. The cap is based upon the amount of increase in the Retail Prices Index between the dates of the respective registrations.
21. By virtue of Section 72 of the Act, the registration of the rent takes effect from the date upon which the Committee reached its decision. In this case, that date is 16 November 2022. The Committee is unable to backdate a new registered rent by virtue of this provision.

Committee’s Assessment of the Rent

22. The starting point in assessing a rent under Section 70 of the Act is to establish the market rent for the Property. To that market rent, a number of adjustments are made in order to reflect the requirements of Section 70 of the Act. As stated above, the Committee is restrained from

considering the personal circumstances of the parties by law. This includes any expectations a Tenant may have as to the rental value.

23. As stated above, neither the Landlord nor the Tenant provided evidence as to rent of other similar properties in the locality.
24. The Committee, having made its own enquiries, utilising its own experience and expertise and having regard to all the requirements of Section 70 of the Act, find that the market rent for the Property before the relevant deductions (as outlined below) is £145 per week.
25. From this the Committee has deducted £5.00 to reflect the condition of the carpets in the Property (had been replaced by the Tenant) and another £15.00 for white goods and furniture.
26. As regards to scarcity, the Rent Officer made a deduction and we agree with his view that the appropriate deduction in this instance is appropriate at 20% because we are satisfied that there is a degree of scarcity for this type of property in this area.
27. This produces a rent of £126.78 per week.

Calculations

28. Applying the Committee's findings and conclusions, the Committee has determined the rent as follows:

Market Rent (per calendar month)	£145.00
Less adjustments	
Lack of Central Heating	(£ 0.00)
Carpets/Curtains	(£5.00)
Basic Kitchen/ Bathroom	(£0.00)
Condition	(£0.00)
Double Glazing	(£ 0.00)
Other (specify) White goods and furniture	(£15.00)
Adjusted Market Rent	£125.00
Deduction for scarcity at 20%	(£25.00)
Add variable service charges	£26.78
Total	£126.78
Fair Rent	£126.78

29. The rent is subject to the capping provisions of the Maximum Fair Rent Order. The maximum fair rent under this order is capped at £144.28 per week.
30. Accordingly, as the Order does not apply, we record that the fair rent for the Property is £126.78 per week.
31. For the purposes of Section 72 of the Act (as amended) the decision was made on 16 November 2022.

Dated this 21st day of December 2022.

T. Rakhim
Tribunal Judge

Rent Assessment Panel for Wales

Notice of the Rent Assessment Committee Decision		File Reference Number: RAC/0013/07/22
Address of Premises 7 St. Clair Court, West Bute Street, Butetown, Cardiff, CF10 5FT		The Committee members were Tanveer Rakhim (Legal Chair) Mark Taylor (Surveyor Member)
(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.	£126.78 per week (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.	16.11.22	
(3) The rent is to be registered as variable.		
(4) The amount for services is:	£26.78 per week	
(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 landlord.		
(7) Details (other than rent) where different from Rent Register entry: N/A		
Date of decision: 16.11.22	Chairman T Rakhim	
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: N/A		

EXAMPLES OF HOW THE MAXIMUM FAIR RENT IS CALCULATED

Example 1 – The rent officer’s decision

The rent officer receives an application for the rent of 1A Acacia Avenue to be re-registered. The rent was last registered at £200 per month in March 2009. The published RPI (all items) for the month of March 2009 was 211.3. The rent officer is to register the rent on 31 March 2011. The latest published RPI (all items) on the first day of March 2011 is 229.0.

Firstly, the rent officer works out the change in the RPI since the last registration was made:

$$229.0 - 211.3 = 17.7.$$

He divides the result by the RPI figure for the month when the last rent registration was made to get the proportionate change:

$$17.7 \div 211.3 = 0.0837671.$$

He then adds the equivalent of an additional 5% (7.5% if this is the first application for registration after the limit was introduced, subsequent registrations will be 5%).

$$0.0837671 + 0.05 = 0.1337671.$$

$$\text{He then adds } 1 = 1.1337671.$$

He then multiplies the result by the existing registered rent:

$$£200 \times 1.1337671 = £226.75.$$

He then rounds the result up to the nearest 50 pence. The maximum fair rent the rent officer could register is therefore £227 per month.

Example 2 – The Rent Assessment Committee’s decision

The tenant objects to the rent of £227 per month set (in example 1) by the rent officer for 1A Acacia Avenue. The case is referred by the rent officer to the rent assessment committee to decide the rent. The committee agrees that the case is not exempt from the maximum fair rent. The committee is to decide the rent on 15 May 2011. The latest published RPI (all items) on the first day of May 2011 is 232.5. The published RPI (all items) for the month of March 2009 when the rent was last registered at £200 per month was 211.3. (This was the last registration before the current application for a new rent registration was made to the rent officer.)

Firstly, the committee works out the change in the RPI since the last rent registration was made:

$$232.5 - 211.3 = 21.2.$$

It divides the result by the RPI figure for the month when the last rent registration was made to get the proportionate change:

$$21.2 \div 211.3 = 0.1003312.$$

It then adds the equivalent of an additional 5% (7.5% if this is the first application for registration after the limit was introduced, subsequent registrations will be 5%:)

$$0.1003312 + 0.05 = 0.1503312$$

It then adds 1 = 1.1503312.

It then multiplies the result by the existing registered rent:

$$£200 \times 1.1503312 = £230.06.$$

It then rounds the result up to the nearest 50 pence. The maximum fair rent the rent assessment committee could decide is therefore £230.50 per month.