

Y TRIBIWNLYS EIDDO PRESWYL
RESIDENTIAL PROPERTY TRIBUNAL
RENT ASSESSMENT COMMITTEE

REFERENCE: RAC/0018/09/23

In the matter of an application under Section 123 of the Renting Homes (Wales) Act 2016 and the Renting Homes (Rent Determination) (Converted Contracts) (Wales) Regulations 2022.

PROPERTY ADDRESS: Flat 1, 31 Clifton Road, Llandudno, LL30 2YH

APPLICANT: Ms. Deborah Parker

RESPONDENT: Mr. Dean Gay

INSPECTION: Monday 18th December 2023

HEARING: Virtual hearing on Teams– Friday 22nd December 2023

Tribunal: Mr T Lloyd, Tribunal Judge
Mr H Lewis, Surveyor Member
Mr E Jones, Lay Member

Decision

The committee determines that the market rent payable for the property is £675 per calendar month. The new rent is payable from the 13th of November 2023.

Reasons

Introduction

1. Ms Deborah Parker (“the Applicant”) made an application for the determination of the proposed rent increase in respect of her occupation of the property known as Flat 1, 31 Clifton Road, Llandudno, LL30 2YH (“the Property”).
2. The Applicant’s occupation of the property commenced on the 1st of September 2014.
3. By way of a notice dated the 12th of September 2023 the landlord for the first time since the tenancy commenced sought to increase the rent from £460 per calendar month to

£750 per calendar month. The revised rent was proposed to take effect from the 13th of November 2023.

4. As a consequence, the Applicant referred the matter to the Rent Assessment Committee ("The Committee").

Description

5. The property is situated in a traditional end terrace town house, converted into three self-contained flats and forming part of an established residential area being convenient to town centre amenities.
6. Construction is in rendered masonry under a pitched slate clad roof. The rear single storey structure is constructed in rendered brick under a lean-to roof, clad in concrete tile and corrugated asbestos fibre cement sheeting. Windows are in PVCu and are double glazed.
7. The Property is a Ground Floor Flat with accommodation briefly comprising:
Ground Floor: Shared entrance lobby to entrance hall, living room, inner hall, bedroom one, shower room with w/c, kitchen with dining area, bedroom two opening to en-suite bathroom with w/c.

Externally: enclosed rear yard.

Condition

8. The general condition of the property appears consistent with its age and type of construction, but some works of repair and maintenance are required. Internally, the accommodation was found to be reasonably well presented.
9. Significant moisture readings were recorded to localised areas of the ground floor walls. Evidence of damp/condensation and black mould is also affecting the window/door reveals of the kitchen. The damp recorded within the property is impacting upon internal decorations including peeling wall coverings.
10. Lack of maintenance /repair to elements of the external fabric will be a contributory factor to the damp levels found internally. In particular, the absence of the lower section of rainwater downpipe to the front right-hand corner is allowing rainwater to cascade over the lower part of the wall. Defective external wall finishes, including the forming of a 'bell mouth' render bead at lower level of the gable end, have not resolved the high moisture levels found to internal walls. Further remedial works are required prior to a scheme of redecorating.
11. Improved ventilation and the use of extractor fans would assist in mitigating the effects of condensation prevalent to the kitchen.

12. A section of the former outbuilding in the rear single storey structure has been converted to accommodate the second bedroom and en-suite bathroom. Internal walls would appear to have been upgraded but without further exposure, details of the work undertaken cannot be established. The original asbestos fibre cement corrugated roof has been retained, lined internally with plaster skim plasterboard. It is not known whether the conversion works have the benefit of a building regulation application.

The Law

13. In accordance with Regulation 6 of the Renting Homes (Rent Determination) (Converted Contracts) (Wales) Regulations 2022 (“the Regulations”) the Committee must determine the rent at which it considers the dwelling concerned might reasonably be expected to be let in the open market by a willing landlord under the same type of relevant converted contract as that to which the notice and section 104 or 123 of the Renting Homes (Wales) Act 2016 relates. Regulation 6 also enables certain assumptions to be made when reaching a determination as to the rent.

Evidence

14. In accordance with the directions both the Applicant and Respondent filed and served statements detailing their respective positions.
15. In summary the Respondent’s case by way of his statement is that:

The rent for the property is within the range between £750 and £900 per calendar month.

The rent has not been increased since the tenancy commenced.

The Respondent supports his contention for the revised rent by way of currently listed properties on Right Move, a report from a Coleen Holland lettings branch manager at Beresford Adams estate agents Llandudno, and a report commissioned by the Respondent undertaken by Mr Luke Pollitt branch manager of David Hardy estate agents in Llandudno.

The Respondent further refutes the allegation made by the Applicant (see below) that he has not undertaken any repairs and asserts that in relation to the intermittent leak from the flats above, to attending on six occasions and a further two contractors attending to resolve the issue. He maintains that he was not aware that the latch on the rear garden gate has disappeared and that the shed the Applicant referred to never formed part of the rental property, it was simply a storage shed that he agreed the Applicant could make use of.

The Respondent also asserted that during the rental he made various minor improvements and re decorated including but not limited to:

Replacing vinyl flooring to the kitchen with ceramic tiles;

Replacement of various carpets including the hallway and bedroom;

Upgrading the shower;
Redecorating the lounge and bedrooms twice;
Installing stud walling and extra insulation to the Bay Area and bedroom;
Removing the brick fireplace/ display at the tenant's request
Providing new front and lounge doors;
Various other minor tasks including hanging mirrors.

16. Conversely the Applicant's written statement recounts that she moved into the property in September 2014. She already knew the Respondent and they were on good terms for the majority of the letting. Having firstly been told that she could remain in the property in September 2022 she was then told in the December of the same year that the properties were being sold. Other properties in the area were outside her price bracket and in February 2023 her case is that she was served with a no-fault eviction order with a hearing set for September 2023.
17. She advised the Respondent that she had contacted the council, and he was not happy with that and since then they have only had contact by text messaging. The application for possession was dismissed due to an invalid section 21 notice having been served. The rent review notice was served some four hours after the court hearing.
18. In relation to the items of repair and improvement the Respondent maintained he had undertaken, the Applicant accepted that he replaced the Kitchen vinyl flooring but that was due to the concrete floor being uneven and the vinyl splitting. He had also replaced the carpets in the hallway and bedrooms and also updated the shower room. The living room was decorated the first time with material supplied by the Applicant and the second time was limited to re papering the chimney breast with the Applicant's son doing the remainder. In relation to the redecoration of her son's bedroom this was only done once by the Respondent. The second time it was done by the Applicant's son and now requires redecoration once again due to water damage.
19. A site visit was undertaken by the Committee's surveyor Mr Hefin Lewis FRICS on the 18th of December 2023 and we as a committee have the benefit of photographs and a narrative report from Mr. Lewis part of which is reproduced within this decision notice.
20. The committee convened on the 22nd of December 2023 at 10:00 am to hear the evidence.
21. The parties were informed that we had already read all the witness statements and as such the matter proceeded by way of questions to the parties from the committee members.
22. The Applicant gave evidence first. She confirmed that she had been in occupation since 2014 with no rental increase. She said the major issues related to water damage from the bathroom of the first floor flat and there were ongoing damp problems with the property. When asked why she had not provided comparable evidence or suggested an alternative rent she simply said that she had not and then went on to concede that in her view the market rent for the property in its current condition would be £600 per

calendar month. When asked by Mr. Lewis how she arrived at this figure she could not really provide an answer other than to say that she felt an increase of £290 per calendar month was too much. She mentioned that she felt there was subsidence in the kitchen to the right-hand side. When asked if she had sought specialist advice in that regard and to the issue of damp, she said that she had not.

23. The Respondent then gave evidence and confirmed that he owned the entire building which was made-up of three apartments. He confirmed that he had carried out some significant maintenance in the past in relation to roof repairs and painting the front of the property. He has also undertaken smaller repairs such as replacing downpipes and slipped slates. When asked if he was aware of the fact that the front right side downspout section was missing, he replied by saying he was, and it would be replaced. All exterior plastering including the bell was undertaken before the Respondent's ownership of the property in respect of which he confirmed he purchased some 18 years ago.
24. In relation to the second bedroom described as being a converted outbuilding in the inspection section (above), the Respondent's evidence was that the conversion had taken place before he purchased the property, and he had no idea or information as to whether or not building regulations approval had been obtained.
25. In relation to the evidence in support of the revised rent he relied upon the reports as described above and confirmed that the Beresford Adams report where it stated "let agreed" were the actual rental figures that were ultimately agreed with the tenants in each instance.
26. He maintained that as this was a ground floor flat with a garden and two bathrooms it was potentially worth more than some of the comparable evidence referred to but conceded that there were no comparables which were exactly on point.
27. When asked about the garden shed, he said it was excluded from the tenancy, but he had given consent to the Applicant to use the same. The Applicant confirmed she had a freezer and some other items in the shed.
28. When asked by the Tribunal Judge why he has not reviewed the rent at all since 2014 the Respondent said he would refer to the same in his closing submissions. The Applicant had no objection to that and therefore the matter proceeded in that way.
29. The Respondent then went on to read from a prepared statement by way of closing submissions. In summary he said that he had not revised the rent because the Applicant initially looked after the property, and they had a good working relationship. To the Applicant's credit she kept the property in a good condition. Although there had been some difficulties with complaints in relation to refuse and seagulls (something which the Respondent thought had been instigated by a neighbour some distance away) on the whole the matters had been amicable.

30. In September of 2022 the Respondent told the Applicant he was wanting to retire and sell the properties. His case is that sometime later the Applicant asked him to serve her with a notice so that she could apply to the local authority for alternative housing. This was done by the Respondent and as a consequence he could not serve a rent increase notice as it would imply that he wished the tenancy to continue.
31. Subsequently there was some anti-social behaviour the detail of the same was not provided to us and in any event would not have had any bearing upon our deliberations.
32. The Respondent said that he felt the Applicant frustrated his desire to sell the property and the notice to quit was thrown out on a technicality back in February of 2023 leaving him with no option but to seek to increase the rent as he was suffering financially. He opted for £750 per calendar month as he felt that was fair although in reality properties were being let for anywhere between £750 and £1500 per calendar month. He also referred to further breaches of tenancy but provided no detail. Again, we hasten to add these are matters that are not relevant to our deliberations in this case.
33. The Respondent also maintained that he had spent some £15,000 so far due to the unreasonable behaviour of the Applicant and also had to spend £5000 in splitting the freehold title to the three apartments so as to try and sell one of them.
34. The Respondent commented that he was disappointed to have been refused access by the Applicant to accompany the surveyor during the inspection but accepted assurances from the panel and the inspecting surveyor that no evidence was taken from the applicant during the inspection. Similarly, the Applicant was assured that the case was not discussed with the respondent following the inspection as the surveyor member left the property.
35. The Applicant then provided her closing submissions. In summary she denied requesting that the Respondent served her with a notice to quit. Maintained that she had been intimidated by the Respondent and told that bailiffs would evict her, and she would end up in a bed and breakfast.

Determination

36. The committee determined the matter on the 22nd of December 2023 following the oral hearing by way of the Microsoft teams platform.
37. We are satisfied that the notice of variation of rent was a valid notice and having been satisfied that the notice was valid went on to consider the evidence provided by the parties.
38. In addition to the comparable evidence provided by the Respondent, the Surveyor member had also undertaken his own research.
39. In coming to our conclusion, we have the benefit of the information following the inspection by the Surveyor member.

40. We are satisfied (as conceded by the Respondent) that none of the comparable evidence advanced by him is exactly on point.
41. The property is, as referred to in the account of the inspection detailed above, in need of some routine maintenance. It is clear from the inspection that lack of maintenance to the external fabric had contributed to dampness within the property. In our view they are not simply problems which have arisen in the short term.
42. Accordingly, given the condition of the property we are of the opinion that in its current condition it will not command the rental figure the Respondent seeks to contend for, but a lower figure. Had the property been in a good condition with all maintenance works having been undertaken and no damp we would have had no hesitation in recommending the figure contended by the Respondent of £750 per calendar month.
43. However, given the condition of the property and all of the matters set out above sitting as an expert tribunal the Committee considered that an appropriate rental for the subject property in its current condition would be no more than £675 per calendar month.
44. As a consequence, the Committee determines that the rent which the property might expect to fetch in the open market under the same contract as in the current case is £675 per calendar month.
45. Pursuant to clause 5 of the Regulations the new rent is to take effect from the date specified in the notice being namely the 13th of November 2023.

Dated this 11th day of January 2024

Tribunal Judge
Trefor Lloyd