

Y TRIBIWNYLS EIDDO PRESWYL
RESIDENTIAL PROPERTY TRIBUNAL

Reference: RAC/0017/10/24

In the matter of 1 Eaglesbush Close, Neath, SA11 2AL

In the matter of an application under the Renting Homes (Wales) Act 2016 & The Renting Homes (Rent Determination) (Converted Contacts) (Wales) Regulations 2022

Tribunal Judge: Mr A R Phillips

Surveyor member: Ms C Jones

Applicant: Anthony Rees

Representative: In person

Respondent: Ferriers Sales and Lettings

Representative: Ms I Knight (Counsel)

Date and Venue of Hearing: 13 February 2025 via Remote Hearing

DECISION

The Tribunal determines that the market rent payable for the Property is £925 per calendar month. The new rent is payable from 19 December 2024.

REASONS FOR DECISION

Background

1. The Applicant, Anthony Rees occupies the property known as 1 Eaglesbush Close, Neath, SA11 2AL ("the Property")
2. The Landlord is Mrs Bethan Cerys Atyeo, and the Property is managed on her behalf by Ferriers Sales and Lettings.
3. The Applicant entered into occupation of the property on 19 March 2021 at a rent of £695 per calendar month.
4. The Renting Homes (Wales) Act 2016 was implemented on 1 December 2022. As a result of this the Applicant's statutory periodic tenancy was automatically converted to a periodic standard contract.

The Application

5. On 24 September 2024, the Respondent served a Notice of Variation of Rent in Form RHW 12 pursuant to section 123 Renting Homes (Wales) Act 2016. This proposed a rent of £1200 per calendar month from 19 December 2024 to replace the existing rent of £695 per calendar month
6. The Applicant has made an application for determination of the rent to the Tribunal in accordance with section 3 The Renting Homes (Rent Determination (Converted Contracts) (Wales) Regulations 2022.
7. On 29 October 2024, the Tribunal issued directions. Both parties have submitted written evidence in accordance with these directions.
8. The Tribunal inspected the Property on the morning of 13 February 2025 with the hearing taking place in the afternoon.

The Inspection

9. The Property is located within Neath, which is an established south Wales town lying to the northwest of Port Talbot and east of Swansea. There are good communication links via the A465 and M4 motorway. The town centre provides good local shopping facilities with a range of national and local businesses. Neath has rail and bus links to the regions.
10. The Property is situated within the Pencaerau residential area and is accessed off Primrose Road in a generally elevated location. Eaglesbush Close is a small cul-de-sac development of circa 12 houses, probably constructed circa 1990's and of varying style and type. Surrounding houses are of mixed age and type.
11. The Property is an end of link style 2 storey modern dwelling house of traditional cavity construction. The Property is set back from pavement level by a small driveway and front garden area. It has exposed facing brick elevations and is constructed under a pitched roof with concrete tile cover. There is a small single storey entrance porch to the front, with a mono pitched tiled roof over. There is an additional 2 storey pitched roof structure to the side, which immediately adjoins the neighbouring premises. This addition originally provided a garage with bedroom over but has in subsequent years been converted to additional living space at ground floor level. There is a conservatory extension to rear with low height perimeter facing brick walls, UPVC glazed windows and with a shallow pitched polycarbonate roof over.
12. Windows and doors are predominantly UPVC type, Rainwater goods are also UPVC/plastic with fascias and barges of timber type. Some windows were noted to have 'blown'.
13. There are generous gardens to side and rear, laid to lawn and patio areas. The plot is level and is pedestrian gated to the side and front aspect.
14. The Property has gas fired central heating via a Viessmann combi-style boiler located within the kitchen.

15. At ground floor level the Property provides entrance porch, living room of good size, a further reception room (the former garage but converted and currently used as a bedroom), kitchen with door to rear garden, and a conservatory accessed via timber double doors from the main reception room. Floors at ground floor level are mostly wood laminate covered.
16. The kitchen is fitted with a range of modern floor and wall units of modern specification, with roll top marble effect work surfaces. The floor is tiled effect. There is an integral hob, oven and microwave, plumbing for fridge freezer (this appliance was tenants own). There is an inset sink and window and door overlooking the rear garden area. The worksurface to the rear of the kitchen taps was rotten and failing. A kitchen tap had been replaced so this rotten area is understood to be as a result of water damage
17. The stairs to first floor level are open plan and rise from the main living room area, one tread was noted to be unstable. Walls are predominantly painted plaster finish and ceilings stipple textured.
18. Areas of black mould growth were noted to the internal walls, ceilings and window frames in various locations and to differing degrees, most notably to the first-floor front bedroom, where recent eradication treatment has been applied but the area of growth is still visible and was prolific.
19. At first floor level there are 3 double bedrooms and a family bathroom. The bathroom has fully tiled floor and walls, bath with shower enclosure over, wash-hand basin unit and WC. There is a heated towel rail.
20. The bathroom specification is reasonably good but showing signs of wear. Floor tiling was noted to be uneven in part and the grouting loose. The light fitting is broken and exposed, the extractor fan is not working.
21. The general decorative condition of the Property is tired.
22. Since the Tribunal proceedings commenced Neath Port Talbot County Borough Council – Environmental Health Services have served an Improvement Notice dated 15th January 2025 under the provisions of the Housing Act 2004.

The Hearing

The Applicant's Submissions

23. The Applicant relied upon his statement dated 16 December 2024.
24. There had never been a functioning carbon monoxide alarm at the Property. It was possible, in his opinion, that the heat detector had been mistaken for a carbon monoxide alarm.
25. The Property inspection reports from Ferriers in 2023 and 2024 had indicated that a carbon monoxide alarm was "Not required".
26. He described the house as being freezing, this was due to the gaps around the windows. The Property became cold within 30 minutes of turning the heating off. He described his room as a wind tunnel in the night.

27. In relation to the damp at the Property Mr Rees could not say how often he opened the first floor windows but did go onto say that he opened the windows occasionally, the windows were not fitted with any vents. He would open the window in the bathroom and the windows upstairs would be opened when his daughters visited which was on a week on and week off arrangement.
28. There was a condenser tumble dryer in the conservatory and that was how he dried his clothes.
29. When he first lived at the Property there was no problem with mould, but it started to be a problem about two years ago. He had been in work during the first year of occupation of the Property.
30. He did use the heating system, but it was not on 24/7.
31. He had reported any defects at the Property to the managing agent, some of the jobs were done, but others were not.
32. He had not removed any carbon monoxide detector from the Property.

The Respondent's Submissions

33. The Respondent Landlord relied upon the statement of Bethan Carys Atyeo dated 26 November 2024 and the statement of Philip David John Atyeo dated 12 February 2025.
34. Mr Atyeo's statement confirmed the statement of his wife Bethan Carys Atyeo as she was unfortunately not able to attend the hearing because she was unwell.
35. He was familiar with the Property having visited it prior to marrying his wife. Once they decided to rent out the property they carried out various works to it so that it was in tip top condition at the commencement of the tenancy.
36. In relation to the carbon monoxide alarm he was not aware of it being an issue until the failed possession proceedings.
37. They had employed a professional agent to manage the Property on their behalf and it was his understanding that a carbon monoxide alarm was fitted at the Property
38. They had a damp report prepared which had confirmed that there was no mould because of water ingress, it was stated to be due to a lack of ventilation.

Following the hearing of the evidence the Tribunal reserved its decision.

Deliberations

39. Following the implementation of the Renting Homes (Wales) Act 2016 the Applicants occupation of the Property was automatically converted to a periodic standard contract on 1 December 2022. Accordingly, jurisdiction to determine this matter arises by virtue of regulation 3 The Renting Homes (Rent Determination (Converted Contracts) (Wales) Regulations 2022.
40. The Tribunal has considered the notice dated 24 September 2024. The validity of this notice is not in dispute. The Tribunal is satisfied that the notice complies with the requirements of section 123(1) (2) (3) Renting Homes (Wales) Act 2016.
41. Therefore, the Tribunal is to determine the rent which the Property might reasonably be expected to let in the open market by a willing landlord under the same type of relevant converted contract having regard to regulation 6 The Renting Homes (Rent Determination (Converted Contracts) (Wales) Regulations 2022.
42. There is conflicting evidence as to the presence of a carbon monoxide alarm at the Property.
43. The absence of a carbon monoxide alarm would be a breach of the requirements under the Renting Homes (Fitness for Human Habitation) (Wales) Regulations 2022 under which a landlord is obliged to ensure a dwelling is both in repair and fit for human habitation.
44. Mr Atyeo was understandably unable to categorically confirm the presence of a carbon monoxide alarm because he and his wife relied upon a professional property management company to deal with such things.
45. The Tribunal inspection did not reveal the presence of a carbon monoxide alarm and this is also borne out by the recent inspection by the Council who have specifically noted the absence of a carbon monoxide alarm in the Improvement Notice.
46. On the balance of probabilities, the Tribunal is satisfied that there is no carbon monoxide alarm fitted at the Property.
47. The Tribunal accepts the evidence contained in the damp report provided by the Respondent and is satisfied that, at least in part, that there is evidence that the damp and mould is caused by a lack of ventilation of the upstairs bedrooms by the Applicant.
48. Further, the Applicant's evidence to the Tribunal was not persuasive that the upstairs bedrooms were adequately heated throughout the year to avoid damp when his daughters were not in residence at the Property.

Valuation Considerations

49. Both sides have provided and commented upon a range of properties available and to let at the time of submissions. These properties range significantly in terms of location, size, age and type. The comparable asking rents ranged from £695pcm for a 2 bed flat in London Road Neath to £1295pcm for a highly specified detached 3 bed house at Linden Close.

50. The property at Priory Close Bryncoch , a 2 bedroomed modern house in a popular residential area was referenced at an asking rent of £795pcm , but on tribunal enquiries it is indicated to have let after a rent reduction in January 2025 to £750pcm.
51. The comparable at Pretyman Drive Llandarcy is referenced as a let transaction at £1200 pcm. It is a well specified 3 bed semi- detached property of considerably better standard and location than the Property.
52. The availability of the 3 bed properties at Britton Ferry at £925pcm and Glen Road Neath at £875 are also useful in establishing a level of rental range.
53. Mr Rees provided an average rental figure based upon private lettings of 3 bed type properties which suggested an average of £826pcm.
54. None of the comparables referenced by either party are compelling individually. They do however provide an indicative rental range of available accommodation. Most are available to let rather than completed transactions. The rental market does however remain strong and appropriately priced premises can let swiftly.
55. The Property has many merits in terms of family accommodation and plot but, it does also have a number of repair/maintenance and compliance issues to remedy, that would be taken into account within a tenant's bid.
56. Whilst the Tribunal has determined that there is not a carbon monoxide alarm fitted at the Property it accepts Ms Knight's submission that the question of whether the determined rent is payable, or not, is a matter for the County Court to determine.
57. Taking into account the Property's accommodation, condition, and amenity and also using our own experience alongside the evidence presented, we consider that a rent of £925 pcm is appropriate.

Dated this 13th day of February 2025

AR Phillips

Tribunal Judge