

Y TRIBIWNLYS EIDDO PRESWYL
RESIDENTIAL PROPERTY TRIBUNAL

Reference: **RAC/0022/12/24**

In the Matter of: **2 Hensol Villas, Hensol, Pontyclun, CF72 8JZ**

In the matter of an Application under the Renting Homes (Wales) Act 2016

The Renting Homes (Rent Determination) (Converted Contracts) (Wales) Regulations 2022.

APPLICANT: Simon Griffiths

RESPONDENT: Marilyn Roe

ORDER

Background and the Law

1. On the 9th December 2024 an application was made to the Tribunal sitting as a Rent Assessment Committee in respect of 2 Hensol Villas, Hensol, Pontyclun CF72 8JZ (the Property) in respect of a Notice of Variation of Rent in form RHW12 dated 27th November 2024 (the Notice).
2. The Notice was served by the Respondent and delivered by hand to the Applicant on the date of the Notice. The date of delivery by hand is the date of service of the Notice.
3. The Notice describes itself as a form for use by a Landlord to give notice to a contract-holder under section 104(1) or section 123(1) of the Renting Homes (Wales) Act 2016 (the Act) of a new rent to take effect on a specified date.
4. The Notice provides that the rent payable under the occupation contract of the Property would amount to £1400 pounds per month from the 29th January 2025 in place of the existing rent of £1100 per month.
5. The Property was originally let on an Assured Shorthold Tenancy Agreement (ASTA) for letting a residential dwelling dated the 1st June 2019 and made between the Respondent as Landlord and the Applicant as Tenant for an initial term of 12 months and subject to a rent of £875.00 in advance on the 29th day of every calendar month
6. The ASTA does not contain an express provision for variation or review of rent but from papers submitted to the Tribunal it appears that the current level of rent £1100 per month is accepted by the Applicant and Respondent and is not in issue.
7. The Act commenced fully on 1 December 2022. On 1 December 2022, existing tenancy agreements automatically converted to an occupation contract under the Act with an ASTA converting to a fixed term standard occupation contract. There is no evidence

before the Tribunal of a new fixed term standard occupation contract being entered into between the parties.

8. The guidance issued under the Act on creating a converted occupation contract was first published on 11th February 2022 and last updated on the 28th February 2023. No evidence was submitted to the Tribunal by the parties in relation to a written statement for a converted occupation contract being given to the Tenant by the Landlord.
9. The Tribunal understands the position to be that under Schedule 12, paragraph 14 (2)(a) of the Act the rent may be varied even before a written statement of the contract as required by the Act is given by the Landlord to the Tenant.
10. In the absence of a new fixed term standard occupation contract being entered into between the Landlord and the Tenant the Tribunal concludes that the occupation of the Property by the Applicant is as a statutory periodic standard contract holder.
11. In relation to a variation of rent Section 123 of the Act applies. Under a statutory periodic standard contract the Respondent as Landlord must give two months notice to increase the rent using form RH12 provided that the rent cannot be increased less than 12 months after the last rent increase. Section 123(4) of the Act states: *'This section is a fundamental provision which is incorporated as a term of all periodic standard contracts under which rent is payable'*. The Tribunal find that this requirement is satisfied.
12. If a tenant moved into their home before 1st December 2022 and at that time had an assured shorthold tenancy then the tenant has a right to challenge a rent increase by applying to the Rent Assessment Committee using application form RAC4. The Tribunal find that this requirement is satisfied.
13. The Renting Homes (Rent Determination) (Converted Contracts) (Wales) Regulations 2022 (the Regulations) provide at Regulation 3(2) that the application to the Rent Assessment Committee must be made in the prescribed form and within two months following the receipt of the notice under section 104 or section 103 of the Act. The Tribunal find that this requirement is satisfied.
14. Regulation 4 of the Regulations provides that a rent assessment committee must determine all applications made under regulation 3 in accordance with the assumptions set out in Regulation 6.
15. Regulation 6 of the Regulations provides that the Rent Assessment 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 converted contract as that to which the notice under section 104 or 123 of the Act relates.

16. Regulation 6 provides for certain assumptions to be made when determining the new level of rent:
- 16.1 The converted contract began on the date specified in the Notice
 - 16.2 The granting of a contract to a sitting tenant has no effect on the rent
 - 16.3 Any increase in the value of the dwelling attributable to a relevant improvement carried out by the tenant/licensee/contract holder has no effect on the rent if the improvement was carried out; otherwise than in pursuance of an obligation to the immediate landlord, OR was pursuant to an obligation to the immediate landlord which did not relate to the specific improvement concerned but arose by reference to consent given to the carrying out of that improvement.
 - 16.4 Any reduction in the value of the dwelling attributable to a failure by the contract holder to comply with any terms of the converted contract has no effect on the rent.
 - 16.5 Council Tax paid by the landlord on the Property has an effect on the rent but any discount or other reduction affecting the amount of council tax payable has no effect on the rent, and
 - 16.6 The landlord is not paying rates in respect of the Property.
- 17 There is no equivalent provision in the Regulations to the Housing Act 1988 section 14 (7) allowing rent to be payable from the date of the Tribunals decision owing to undue hardship. Regulation 5 of the Regulations provide: *"A rent determined by a rent assessment committee, in accordance with the assumptions set out in regulation 6, will be the rent for the dwelling under the relevant converted contract with effect from the date specified in the notice under section 104 or 123 of the Act, unless the landlord and the relevant contract-holder otherwise agree"*

Inspection

- 18 The Property was inspected during the morning of 24 March 2025 by the Tribunal Surveyor when both the Applicant and Respondent were present.
- 19 The Property is located in a semi-rural location in the hamlet of Hensol, approximately 2 miles off Junction 34 of the M4, and immediately to the rear adjoins the Hensol Park Development, consisting of the Hensol Castle Hotel and various apartments. Originally the property was constructed as staff accommodation for Hensol Castle Hospital circa 1945 and is a semi-detached two storey house of cavity brick/block walls under a pitched slate roof. The original window frames have been replaced with double glazed uPVC units and the property enjoys the benefit of oil central heating. On the ground floor there is an entrance hall, lounge, living room and kitchen, with three bedrooms

and bathroom on the first floor. Outside there are gardens to front and rear, but no off-street parking.

- 20 Overall, the Property was in reasonable condition with a modern kitchen and bathroom. The fitted carpets were worn in places and the internal decoration marked in various areas.

Submissions

- 21 The Applicant included within his Submissions four comparable properties to assist the Tribunal in their determination of the market rent. These were all located outside Hensol due to the very small number of similar properties in the hamlet and ranged in rental values between £1,000 and £1,495 per calendar month.
- 22 The Respondent included within her Submission emails she had received from estate agents indicating rental values between £1,300 and £1,500 per calendar month, together with an online estimate of value showing a figure between £1,042 and £1,596 per calendar month.

Hearing

- 23 A video hearing was held by the Tribunal on the afternoon of 24 March 2025, with both the Applicant and Respondent in attendance.
- 24 The Applicant drew to the attention of the Tribunal that the proposed rental of £1,400 per calendar month would be a 60% increase over the original rental in 2019. He stated that the Landlord had failed to maintain the property, and this materially affected the value of the property.
- 25 During the questioning of the Applicant by the Tribunal, he said that in his opinion the current rental of £1,100 per calendar month represented the present market rental value of the property, and that of the comparables he had advanced the best to support his position was that of the terraced house located in School Street Pontyclun at £1,000 per calendar month. He also drew to the Tribunal's attention that having reference to the figures published by the Office of National Statistics, these show a national increase in domestic property rental levels of 25% since the commencement of the tenancy, and when applied to the original rental, confirmed his view of the current rental value i.e. £1,093.75 per calendar month. Three comparables had been found by the Tribunal, in Peterston Super Ely, Miskin Pontyclun, and Talygarn Pontyclun, and these were shown to the Applicant and he was invited to amend his opinion of value, but he declined as in his view these supported his contention.

- 26 The Respondent stated that the property was her home and that she had never attempted to obtain the maximum rent during the course of the tenancy. She acknowledged the difficulty of finding relevant comparable evidence within the hamlet of Hensol and relied upon the independent valuations that had been obtained from local estate agents to support her proposed rental of £1,400 per calendar month.
- 27 The Respondent confirmed that a representative of Darlows Estate Agents had carried out an internal and external inspection of the property before advancing their opinion of value set out within their email. She sought to distinguish the comparables advanced by the Applicant as they were located within Rhondda Cynon Taf County Borough Council area, and not the Vale of Glamorgan Council area where the property is located. It was her contention that values were generally higher in the Vale of Glamorgan than within Rhondda Cynon Taf. Similarly, the comparables established by the Tribunal were discussed with the Respondent, and she conceded that the property in Peterston Super Ely was located within the Vale of Glamorgan.

Decision

- 28 The existing rental was effective from December 2023 and the Tribunal considered that residential rental values had increased since that time.
- 29 The Applicant's alleged disrepair of the subject property did not materially affect the Tribunal's consideration of the value, as in the Tribunal's view the property was in reasonable order, having regard to its age and style of construction. The comparable advanced by the Applicant in School Street Pontyclun was not helpful to the Tribunal, as it was of a different style/period of property to the subject, and in a completely different locational environment. The emails advanced by the Respondent were not particularly helpful as they could not be considered as expert evidence, as they were not in the format of *surveyor's expert evidence* usually presented by parties in matters before the Tribunal.
- 30 The Tribunal having seen and heard all the evidence considers that the best comparables to assist with their assessment of rental value were located in Peterston Super Ely which is a semi-detached three bedroom house with integral garage with an asking rental of £1,200 per month, and at Talygarn Pontyclun which is a three storey three bedroom town house located within a parkland development with an asking rental of £1,450 per calendar month.
- 31 The location of the Peterston Super Ely house was not as good as the subject with the overall accommodation being very similar in size to the subject, but it does enjoy the benefit of a garage. The town house in Talygarn is well located within a parkland

development and enjoys the benefit of a second bathroom and car parking space, both of which would enhance its appeal in the market, and therefore its value.

32 Having regard to these factors the Tribunal arrives at a rental value of £1,250 per calendar month as at 27 November 2024, with the rent becoming payable from 29 January 2025.

Dated 2nd April 2025

Michael Draper, Chair

Andrew Lewis, Surveyor member

Susan Hurds, Lay member