


Rent Assessment Panel for Wales

Notice of the Rent Assessment Committee Decision		File Reference Number: RAC/0034/10/14
Address of Premises 75 Mackintosh Place Roath Cardiff CF24 4RL	The Committee members were Richard Payne LLB MPhil Roger Baynham FRICS	
(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.	£119 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.	12 th December 2014	
(3) The rent is not to be registered as variable.		
(4) The amount for services is:	n/a	
(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 carried out by the landlord.		
(7) Details (other than rent) where different from Rent Register entry:		
Date of decision: <u>12th December 2014</u>	Chairman	
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		

Y TRIBIWNLYS EIDDO PRESWYL

RESIDENTIAL PROPERTY TRIBUNAL

RENT ASSESSMENT COMMITTEE (Rent Act 1977)

Reference: RAC/0034/10/14

Property: 75 Mackintosh Place, Roath, Cardiff CF24 4RL

Applicant: United Welsh Housing Association

Respondent: Mrs Hazel Willetts

COMMITTEE: Richard Payne LLB MPhil
Roger Baynham FRICS

REASONS FOR THE DECISION OF THE RENT ASSESSMENT COMMITTEE

The registered rent for 75 Mackintosh Place, Roath, Cardiff CF24 4RL is determined at £119 per week.

The registration of the rent takes effect from 12th December 2014.

Background

1. The Applicant, the United Welsh Housing Association (UWHA) is the landlord of 75 Mackintosh Place, Roath, Cardiff, CF24 4RL ('the property'). The tenant and Respondent is Mrs Hazel Willetts, who was assisted in her written representations to the tribunal by her daughter Miss Melanie Willetts. The tenancy of this property began on the 1st January 1990 according to the UWHA's application for a new rent, although the Rent Register records that the tenancy commenced on the 29th May 1982. We consider that the rent register is correct and note that there is no dispute by the Applicant that this is a protected tenancy under the Rent Act 1977 ('RA 1977').
2. On 12th August 2014, the Applicant applied under s.67 of the RA 1977 for registration of a fair rent. The Applicant sought a new weekly rent of £127.68 per week. The rent at the time of the application was £110 per week. The application recorded that a new boiler had been supplied by the landlord on the 1st December 2013, but there had not otherwise been any major works or improvements carried out by the landlord or indeed the tenant since the previous registration of the £110 per week rent on the 9th July 2012.

3. The Rent Officer registered a rent of £117 per week to be effective from the 8th September 2014, and by letter of the 17th September 2014, the UWHA appealed against that decision. By letter of the 1st October 2014 the Rent Officer referred the matter to the Rent Assessment Committee of the Residential Property Tribunal ('the Tribunal').

The Inspection

4. The Tribunal inspected the property on 12th December 2014 in the presence of the tenant and her adult children Miss Melanie Willetts and Mr Dale Willetts. The Landlord had been notified of the date and time of the inspection but was not represented at the same.

Situation & Description

5. The property comprises a substantial five bedroom semi-detached end of terrace house having three storeys to the front elevation and two storeys to the rear. It has the benefit of a small forecourt and a rear garden which has a gravel area with raised flower borders and a separate brick built garage. It is situated on a busy road within easy reach of the local shops and amenities at Albany and City Road and relatively close to Cardiff city centre.

Construction

6. The property is over 100 years old and has solid stone exterior walls (which have been cement rendered to the rear elevation), with a slate roof. It has the benefit of double glazed uPVC windows and a uPvc door to the rear garden and full gas central heating.

Accommodation

7. The accommodation on the ground floor comprises a recessed entrance porch, entrance hall, front living room, middle room (currently utilised as a bedroom), breakfast room and a kitchen.
8. On the first floor there is a landing and three double bedrooms together with a shower room, a separate W.C and a further bathroom with a bath with shower over it and a wash hand basin. A staircase leads to a second floor which has a landing and two further double bedrooms.

Condition

9. Although no detailed survey was undertaken, at the time of inspection a number of defects were noted. The property has been subject to some structural movement which has caused some cracking to the ceilings, notably in the front living room, and there are some severe damp problems affecting the property, notably to the wall in the breakfast room and the front bedroom on the second floor. Furthermore the back bedroom on the first floor was no longer in use owing to damp. This was in evidence with peeling wallpaper and damp plaster. There is also a leaking gutter to the side of the property which is causing damp to the exterior wall on Daviot Street. We also noted that the

television aerial is not properly secured; indeed it is hanging off the roof and could pose a hazard to pedestrians if it were to fall.

The Law

10. Section 70 of the RA 1977 sets out the factors to be considered when determining a fair rent. In particular we are required to have regard to the age, character, locality and state of repair of the property.

11. At the same time, s.70 requires us to disregard:

The personal circumstances of the parties ;

Any disrepair or other defect attributable to a failure by the tenant under the terms of the tenancy; and

Any improvements carried out by the tenant, other than as required under the tenancy

12. We must also assume that the number of people seeking to become tenants of similar properties in the area on terms identical to the Respondent's tenancy (save as to rent) is not substantially greater than the number of such properties which are available to rent on such terms. In other words, we must make certain assumptions regarding scarcity and demand.

13. In addition, further regulation of Rent Act rents is provided by the Rent Acts (Maximum Fair Rent) Order 1999 ('the Maximum Fair Rent Order'), which places a cap on the permissible amount of the increase of a fair rent between one registration and the next. The cap is based upon the amount of increase in the Retail Prices Index between the dates of the two registrations.

14. By virtue of section 72 of the RA 1977, the registration of the rent takes effect from the date when the Tribunal reached its decision.

Representations before the Tribunal.

15. Neither party wished the matter to be dealt with at an oral hearing, and both parties were therefore content for the case to be dealt with by inspection and consideration of the evidence and written representations. We had before us the information supplied by the Rent Officer, which included the entry from the Rent Register of 9th July 2012, as well as sheets from previous inspections of the property dated 5th July 2012, and undated architects plans of the property. It was not clear to us whether the Rent Officer had actually inspected the property internally before setting the rent to be effective from the 8th September 2014. There was no evidence that there had been such an inspection in our papers.

16. We had the UWHA's representations dated 21st October 2014 in which they submitted that "We wish to appeal the rent determined by the Rent Officer of £117 as we are charging £121.60 for 5 bedroom properties in Cardiff and when we work out the MFR it comes to £122."
17. We also had written representations on the tenant's behalf which pointed out that the back bedroom, which had been the tenant's bedroom, was now unusable due to damp and that the tenant had moved bedrooms as a result.

Assessment of the rent

18. The starting point in assessing a rent under s.70 of the RA 1977 is to establish the market rent for the property. To that rent, a number of adjustments are made, to reflect the requirements of s.70.
19. The Rent Officer had had regard to a range of rents for five bedroom terraced properties, one five bedroom detached house and a self contained flat with five bedrooms in the CF24 postal area but we were not provided with the addresses of these properties. The rents ranged from £206.54 to £328.85 per week or £895 to £1425 per month. Based upon that evidence, the Rent Officer set the initial market rent for the property at £177.00 per week.
20. Using our own skill and expertise, and having regard to the size and location of the property, we disagreed with the Rent Officer's view that £177 per week was a realistic market rent for this property. The market rent evidence relied upon by the Rent Officer is of limited value. The property is in an area with a high student population and it is not clear if the Rent Officer's market evidence includes student lets. Unusually for this area where parking is a problem, the property has the benefit of a garage. We determine that the appropriate market rent for a five bedroom property in good condition in this area would be £220 per week.
21. We considered that such is the extent of the damp in the back bedroom that it is effectively unusable and that it is not fit for habitation. Having found that £220 per week would be the starting point for the market rent, we divided this figure by five to reach the sum of £44 per bedroom. Since one bedroom was unusable we deducted £44 to reflect this. We deducted a further £6 per week to reflect the poor condition of other parts of the house such as the damp in the breakfast room, some damp in the middle downstairs room (currently used as a bedroom), and significant damp staining and damp in the front bedroom on the second floor, and the cracking to the living room ceiling. Therefore we deducted £50 per week in relation to the condition of the property.
22. Carpets and curtains would usually be provided by the landlord in a rented property. That was not the case here and we therefore deducted £15 from the market rent, to reflect this.

23. The kitchen as provided by the landlord was basic as was the bathroom upstairs which had simply a bath with a shower over it and a wash hand basin. Market rents today would reflect better kitchen and bathroom facilities and we therefore deducted a further £15 per week to reflect this. Therefore the total deductions from our starting point of £220 comprised £80 to leave an adjusted market rent of £140.
24. On the issue of scarcity, the Rent Officer had made a deduction of 20% (from his already adjusted market rent of £146). We consider that there is a level of scarcity for properties of this nature in the locality but we consider that the appropriate deduction is 15% which is in line with other decisions of the tribunal relative to this area.

Calculations

25. Applying our findings and conclusions, we determined the rent as follows:

	£	£
Market Rent		220.00
Less Adjustments (if appropriate)		
Lack of Central Heating	0.00	
Carpets/Curtains	15.00	
Basic Kitchen/Bathroom	15.00	
Condition	50.00	
Double Glazing	0.00	
Other (specify)	<u>0.00</u>	
	<u>80.00</u>	
Adjusted Market Rent		140.00
Deduct for Scarcity 15%	<u>21.00</u>	
Fair Rent (excl services)		119.00
Add services (if any)		0.00
Fair Rent (to nearest 50p)		119.00

26. We calculated the Maximum Fair Rent using the present RPI as at the date of inspection of 257.70 and determined the MFR as being £123. We are to determine the fair rent as being the lowest figure of the MFR or our fair rent calculation. The MFR therefore does not apply in this case.

Conclusion

27. The fair rent for the property is therefore £119.00 per week.
28. The registration of the rent takes effect from 12th December 2014, the date we reached our decision.

DATED this 31st Day of December 2014

A handwritten signature in black ink, appearing to be 'R Payne', with a stylized flourish at the end.

Richard Payne
CHAIRMAN