

Rent Assessment Panel for Wales

Notice of the Rent Assessment Committee Decision		File Reference Number: RAC/0007/05/16
Address of Premises 19 Coronation Terrace, Senghenydd, Caerphilly CF83 4HU	The Committee members were Timothy Walsh (Chair) Roger Baynham	
(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.	£83.00 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.	23 September 2016	
(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: 23 September 2016	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: £83.00. MFR does not apply.		

Y TRIBIWNLYS EIDDO PRESWYL
RESIDENTIAL PROPERTY TRIBUNAL
RENT ASSESSMENT COMMITTEE
(RENT ACT 1977)

Reference: RAC/0007/05/16

Property: 19 Coronation Terrace, Senghenydd, Caerphilly, CF83 4HU

Applicant: United Welsh Housing Association

Respondent: Mr. F. Collier

Tribunal: Timothy Walsh (Chairman)
Roger Baynham (Surveyor)

REASONS FOR THE DECISION OF THE RENT ASSESSMENT COMMITTEE

Determination

1. The registered rent for 19 Coronation Terrace, Senghenydd, Caerphilly, CF83 4HU ("the Property") is hereby determined at £83.00 per week.
2. The decision of the committee was reached on 23 September 2016 and the registration of the rent accordingly takes effect from that date.

The Application

3. The Applicant is the landlord of the Property and the Respondent is the tenant.
4. On 19 February 2016 the Applicant made an application to the Rent Officer for the registration of a fair rent for the Property under section 67 of the Rent Act 1977 ("the 1977 Act"). In that application the Respondent sought a new weekly rent of £96.65.
5. At the time of the 2016 application there was an existing registered rent of £78.50 per week effective from 6 January 2014. The Rent Officer determined a new registered rent of £83.00 per week to take effect from 6 April 2016.
6. The Applicant objected to the Rent Officer's determination on 4 May 2016 and the Rent Officer then referred the matter to the Rent Assessment Committee pursuant to

paragraph 6 of Part 1 of Schedule 11 to the Act. Subsequently both parties confirmed to the Committee that they did not require a hearing and were content for the matter to be dealt with on paper only; this Committee proceeds on that basis. Further, in a written note dated 6 June 2016 the Applicant submitted that: *"Our assured tenants would pay £92.05 for this size of property in a similar area also why haven't we received the maximum fair rent for this property?"*.

The Property

7. On 8 September 2016 this Committee was convened to inspect the Property which we did in the company of the Respondent and his son. The Applicant did not attend the inspection.
8. The Property is located in Senghenydd which is a small former mining village located at the top of the Aber Valley approximately 5 miles north-west of Caerphilly. There are few local facilities in the village but all other amenities are available in Caerphilly. The Property was constructed in the 1890s and comprises a middle-of-terrace two storey house built on a relatively steep hill with a rear single ground floor extension. The exterior walls are of stone and brick which have previously had the benefit of external wall insulation and are now rendered. The roof is tiled and the house has double glazed upvc windows. There is a small forecourt with steps leading to the front door while the rear garden is at two levels consisting of a concrete hard standing with steps leading to an area that is overgrown. There is also pedestrian access to a rear road.
9. The accommodation on the ground floor comprises an entrance hall, front room, living room and kitchen having adequate but dated base and wall units. On the first floor there is a landing with a cupboard housing the gas boiler, two double bedrooms and a bathroom with a bath (which has a shower attachment), a wash-hand basin and a w/c. The house has the benefit of gas central heating.
10. There was evidence in the hallway of a previous water leak from the bath and the threshold to the rear door has rotted. In addition, a number of the windows are in poor condition and several could not open properly due to the inhibiting effect of the subsequently added external wall insulation.

Jurisdiction

11. Section 67(1) of the 1977 Act permits an application for the registration of a rent for a dwelling house to be made to the Rent Officer by the landlord or the tenant *"under a regulated tenancy of the dwelling-house"*. A regulated tenancy is, usually, a letting of a dwelling created before 15 January 1989 which is the date on which the Housing Act 1988 came into force. New tenancies of dwellings entered into after that date are

usually governed by the provisions of the 1988 Act and are therefore assured or assured shorthold tenancies.

12. The Committee notes that in its present Application the Applicant stated that the tenancy began on 17 August 1992. That notwithstanding, neither party has asserted that the Respondent does not have a regulated tenancy and, of course, the application is necessarily predicated on that basis. In the circumstances we proceed to determine what would be a fair rent for this property on the assumption that there is a regulated tenancy. We also adopt that course because section 70 of the 1977 Act requires that we determine "*what rent is or would be a fair rent under a regulated tenancy*". Moreover, the Rent Officer accepted jurisdiction to register a fair rent and having done so, the Rent Assessment Committee's statutory function under paragraph 9 of Part 1 to Schedule 11 of the Act is simply to make appropriate enquiries to determine a fair rent for the dwelling house. It is not, in our view, any part of our statutory function to make a determination as to the status of the tenancy once the Rent Officer has accepted jurisdiction to register the rent nor would it be appropriate to decline to determine a fair rent. This approach is also consistent with, and supported by, the decisions in *R v Brent London Borough Rent Officer, ex p Ganatra* [1976] QB 576 and *London Housing and Commercial Properties v. Cowan* [1977] QB 148. In the former case (at p. 584H) Park J. indicated that it would be inappropriate for a Rent Assessment Committee to consider issues concerning its jurisdiction or the competence of the parties to make an application, at least if no new matter has come to light since the Rent Officer's reference. This Committee has evidently seen nothing material that was not otherwise available to the Rent Officer.

The Law

13. The aforementioned section 70 of the 1977 Act enumerates the factors to be considered when determining a fair rent under the Act. It provides as follows:

"70 (1) In determining, for the purposes of this Part of this Act, what rent is or would be a fair rent under a regulated tenancy of a dwelling-house, regard shall be had to all the circumstances (other than personal circumstances) and in particular to—

(a) the age, character, locality and state of repair of the dwelling-house, . . .

(b) if any furniture is provided for use under the tenancy, the quantity, quality and condition of the furniture, and

(c) any premium, or sum in the nature of a premium, which has been or may be lawfully required or received on the grant, renewal, continuance or assignment of the tenancy.

(2) For the purposes of the determination it shall be assumed that the number of persons seeking to become tenants of similar dwelling-houses in the locality on the terms (other than those relating to rent) of the regulated tenancy is not substantially greater than the number of such dwelling-houses in the locality which are available for letting on such terms.

(3) There shall be disregarded—

(a) any disrepair or other defect attributable to a failure by the tenant under the regulated tenancy or any predecessor in title of his to comply with any terms thereof;

(b) any improvement carried out, otherwise than in pursuance of the terms of the tenancy, by the tenant under the regulated tenancy or any predecessor in title of his;

(c), (d) ...

(e) if any furniture is provided for use under the regulated tenancy, any improvement to the furniture by the tenant under the regulated tenancy or any predecessor in title of his or, as the case may be, any deterioration in the condition of the furniture due to any ill-treatment by the tenant, any person residing or lodging with him, or any sub-tenant of his.

(3A) In any case where under Part I of the Local Government Finance Act 1992 the landlord or a superior landlord is liable to pay council tax in respect of a hereditament (“the relevant hereditament”) of which the dwelling-house forms part, regard shall also be had to the amount of council tax which, as at the date on which the application to the rent officer was made, was set by the billing authority—

(a) for the financial year in which that application was made, and

(b) for the category of dwellings within which the relevant hereditament fell on that date,

but any discount or other reduction affecting the amount of council tax payable shall be disregarded.

(3B) In subsection (3A) above—

(a) “hereditament” means a dwelling within the meaning of Part I of the Local Government Finance Act 1992,

(b) “billing authority” has the same meaning as in that Part of that Act, and

(c) “category of dwellings” has the same meaning as in section 30(1) and (2) of that Act.]

(4) In this section “improvement” includes the replacement of any fixture or fitting.

(4A) In this section “premium” has the same meaning as in Part IX of this Act, and “sum in the nature of a premium” means—

(a) any such loan as is mentioned in section 119 or 120 of this Act,

(b) any such excess over the reasonable price of furniture as is mentioned in section 123 of this Act, and

(c) any such advance payment of rent as is mentioned in section 126 of this Act.]

(5) ...”.

14. In addition, further regulation of rents under the 1977 Act is provided by the Rent Acts (Maximum Fair Rent Order) 1999 ("the 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 the increase in the Retail Prices Index ("RPI") between the dates of the two registrations.

Assessment of the Rent

15. The starting point in assessing a rent under section 70 of the 1977 Act is to establish the market rent for the Property. To that rent, a number of adjustments are made to reflect the requirements of section 70.
16. The Rent Officer determined that a market rent for the Property was £109.62 per week. In so determining he had regard to market evidence for 11 two bedroom properties in the CF82 and CF84 postal areas and those comparables included both semi-detached dwellings and terraced houses with rents ranging from £92.31 to £126.92. Of those properties, one in Aber Valley was a semi-detached house with a weekly rent of £101.54 whilst a terraced property in Ystrad Mynach had a weekly rent at the top of the range. In Gelligaer there was both a terraced house and a semi-detached house with a weekly rent of £109.62 (which was, of course, the rent fixed upon by the Rent Officer).
17. The market evidence provided by the Rent Officer necessarily has limited detail and neither party provided further evidence of comparable properties or rentals for this Committee to review. Considering the available evidence and using our own skill and expertise and having particular regard to all of the relevant factors including the size, character and locality of the Property we consider that a market rent of £475 per month is an appropriate market rent for this property. That, of course, equates to a weekly rent of £109.62.
18. Carpets and curtains would usually be provided by the landlord in a rented property but that was not the case here. We have deducted £5 to reflect that fact. Moreover, market rents today would reflect better kitchen and bathroom facilities than those presently in the Property which were basic and in need of modernisation. For these reasons we have deducted another £5 from the market rent that would otherwise apply. We have also deducted a further £5 to reflect the relatively sub-standard condition of the Property compared with what would normally be expected.
19. On the issue of scarcity the Rent Officer had made a deduction of 15% from an adjusted market rent of £97.62. We consider that, whilst there is a level of scarcity for properties of this nature in the locality, a deduction 15% is too high; we consider that a deduction of 12.5% is more appropriate.

20. The resulting calculation by reason of the foregoing is as follows:

Market Rent:		£ 109.62
Less deductions: -		
Carpets/Curtains:	£5.00	
Basic kitchen/bathroom:	£5.00	
Condition:	£5.00	
		- £15.00
Sub-total:		£94.62
Scarcity at 12.5%		-£11.83
Fair rent:		£82.79
Fair rent adjusted to nearest £0.50:		£83.00

21. We calculated the Maximum Fair Rent under the Order using the RPI current at the date of the inspection of 263.40 and determined that the maximum fair rent under the Order was £86.00. The fair rent must be the lowest of either the maximum rent under the Order or our fair rent calculation and, as such, the Order does not apply to this case.

Conclusion

22. The fair rent for the property is £83.00 per week.

23. Pursuant to section 72 of the Act the fair rent takes effect from 23 September 2016 which was the date upon which this committee made its decision.

DATED this 23rd day of September 2016



CHAIRMAN