

**Rent Assessment Panel for Wales**

<b>Notice of the Rent Assessment Committee Decision</b>		File Reference Number: RAC/0022/10/13
Address of Premises 25 Haul Fryn Kenfig Hill Bridgend CF33 6EJ	The Committee members were D J Evans LLB LLM M Abraham 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.	£92.50 per week  (This amount excludes council tax and water rates but includes any amounts entered in boxes 4-5 below.)	
(2) The effective date is: The new rent will apply from this date.	21 <sup>st</sup> November 2013	
(3) The rent is to be registered as variable.		
(4) The amount for services is:	£1.55 per week	
(5) The amount for fuel charges (excluding heating and lighting of common parts) not counting for rent allowance is:	NIL	
(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: THE SERVICE CHARGE IS VARIABLE		
Date of decision: <u>21<sup>st</sup> November 2013</u>	Chairman _____	
<b>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.</b>		
(8) The uncapped fair rent was: N/A		

Y TRIBIWNLYS EIDDO PRESWYL  
RESIDENTIAL PROPERTY TRIBUNAL

DECISION OF THE RENT ASSESSMENT COMMITTEE  
(RENT ACT 1977)

Reference: RAC/0021/10/13  
Property: 25 Haul Fryn, Kenfig Hill, CF33 6EJ  
Landlord: Hafod Housing Association Ltd  
Tenant: Ms Karen Preece  
Committee: D J Evans LLB LLM  
M Abraham FRICS

INTRODUCTION

1 We convened as a Rent Assessment Committee under the provisions of the Rent Act 1977 (the Act) on the 21st November 2013. We had before us a reference from the Rent Officer in respect of 25 Haul Fryn, Kenfig Hill CF33 6EJ (the Property). The Rent Officer had registered a fair rent of £86 per week, inclusive of the £1.55 pw service charge, on the 18th September 2013, effective from the 30th October 2013. The Landlord, Hafod Housing Association Ltd, has objected to the Rent Officer's decision and the Rent Officer has referred the matter to us. The Landlord had applied for the rent to be increased to £100.17 pw inclusive of £1.55 pw service charge.

2 Before considering the matter, we visited the Property. The Tenant, Ms K Preece, was present and we were able to inspect both internally and externally. One of the Landlord's officers also attended.

INSPECTION

3 The Property was originally constructed as a three bedroom traditionally built semi-detached property with rendered walls and a tiled roof. The Property is at the end of a cul de sac of similar two and three bedroom properties owned and managed by the Landlord. There is a small front garden, a driveway with off road parking. The Property also has a side garden where the Tenant has erected a conservatory and number of sheds. It originally had a rear garden but this has now been utilised for the construction of a single storey extension to which we shall refer later.

4 Downstairs, there is a living room and a kitchen, where the Landlord has provided basic units and the flooring. In the hall, the room which had been a downstairs toilet now housed the washing machine and tumble dryer. To the rear of the kitchen is a substantial extension, comprising a large bedroom with an adjoining "wet" room which had been built by the Tenant with the consent of the Landlord and with the assistance of a grant for the benefit of the Tenant's disabled son. Sadly the son has since died. The Tenant has supplied the white goods and additional kitchen units.

5 Upstairs, there is a large bedroom extending across the whole of the front of the house. It was originally two bedrooms. The internal wall has been removed. The Tenant has also provided built-in wardrobes both for this combined bedroom and the adjoining bedroom, the two sets in effect acting as the dividing wall between them. There is an upstairs shower room with a shower, a wash hand basin and a toilet. The Tenant had replaced the original bath.

6 The Property is double glazed and centrally heated. The flooring (other than that in the kitchen) and the carpets have been provided by the Tenant who also provided the curtains. The Tenant had no repair issues.

## REPRESENTATIONS

7 The Tenant requested a hearing. We convened therefore at the Parish Hall in Pyle on Thursday the 21<sup>st</sup> November 2013 in order to hear the parties. The Landlord was represented by Mr Kenneth Campbell, the Landlord's Senior Housing Officer. The Tenant appeared in person. We had before us a letter dated the 26<sup>th</sup> September 2013 to the Rent Officer from the Landlord indicating its wish to appeal the Rent Officer's determination on the grounds that the rent increase was only £3.00 pw to cover a two year period. The Tribunal had also received a letter dated the 17<sup>th</sup> October 2013 again from the Landlord stating that the rent increase of £3.00 pw represented an increase of only 3.6% over a 2 year period. The Landlord considered that we should disregard the amalgamation of the two upstairs bedrooms and that, as a result of the extension, the Property should be now valued as a four bedroom house. The Landlord also drew to our attention the schedule of market evidence provided by the Rent Officer pointing out that whereas the Property is a four bedroom house, the comparables are principally two bedroom houses in Porthcawl and Bridgend.

## CONSIDERATION

8 We are required to determine a fair rent in accordance with section 70 of the Rent Act 1977 and the principles laid down in the case law. We are also required to ignore the personal circumstances of the parties. Before doing so we must consider the basis upon which the Property is being valued. The Property was originally built as a three bedroom house. The extension has in effect converted it into a four bedroom house, but the removal of the wall between the two front bedrooms has made it into a three bedroom house again. These issues were dealt with in evidence.

### *The extension*

9 Mr Campbell accepted that the Tenant had built the extension with the aid of a grant and that the Landlord had not contributed to the cost. He accepted that it was a tenant's improvement. However, the Landlord considered that it was now part of the overall property and that the Landlord had an obligation to maintain its structure. In his view, the value of the extension should be included when determining the rent.

10 He accepted that rent was a return on capital and that the Landlord had not invested any capital in the extension. However, the Landlord's rents are based on what can be afforded. He accepted that when the Tenant leaves the Property at the end of her tenancy the Landlord will have a property with a higher capital value as a result of the extension. The Landlord had consented to the extension being built, but Mr Campbell did not know what maintenance had been carried out to it. He thought it unlikely that anything had been done. He did not know what maintenance had been carried out to the structure of the Property generally.

11 The Tenant explained that she had applied to the local authority for a Disabled Facilities grant. She and her son had had to qualify for the grant and the work was tailored to her son's requirements. The extension had cost £31,000. It had been built in 2005. It was a block construction with a tiled roof. The only maintenance carried out by the Landlord in respect of the extension was the replacement of a shower head.

12 We are satisfied on the basis of the evidence that the extension is a tenant's improvement. Mr Campbell on behalf of the Landlord accepted that it was. The work was carried out by the Tenant for the benefit of her disabled son. It was done with the permission of the Landlord. If it had been a Landlord's improvement, such consent would not have been necessary. The fact that the Tenant obtained a grant to pay for the work is not a relevant issue as the only reason for the work and the grant was because the Tenant's son was disabled and needed the work to be carried out to sustain his ability to reside at the Property. The purpose of the grant was to assist the Tenant in carrying out the improvements for her son. The grant was not to benefit the Landlord. The Landlord did not pay towards the cost. It is true that the extension forms part of the structure and as such will now be the Landlord's responsibility to maintain. However, on the basis of the evidence, the only maintenance in over 12 years is the replacement of a shower head. Furthermore, at the end of the tenancy, the Landlord will receive into its housing stock a much larger building with a higher rental value.

13 The Act is clear on the subject. Under section 70(3)(b) in assessing a fair rent for the Property, we are required to disregard "any improvement carried out...by the tenant..." It does not add a proviso that this disregard does not apply if the landlord has a responsibility to maintain that improvement. It follows that in determining the rent for the Property, we are to disregard the extension.

#### *The amalgamation of two upstairs bedrooms*

14 Mr Campbell submitted that we should value the Property on the basis that it had three upstairs bedrooms. Permission had not been sought to remove the internal wall. At the end of the tenancy, it would be re-instated.

15 The Tenant said that she had in fact been given permission to carry out this work. However, the Landlord had moved premises and had lost the relevant permission. She had also lost her copy of the permission. She had since spoken to a Mr Morgan from the Landlord and had been given permission to retain the work but she must re-instate the internal wall at the end of the tenancy. She did, however, accept that we should determine the rent on the basis of there being three bedrooms upstairs.

16 In view of the Tenant's concession it is not necessary for us to decide this point. We shall therefore proceed to determine the rent for the Property on the basis that it a three bedroom semi detached house without the extension. For the sake of clarification, we shall also disregard the conservatory, a tenant's improvement about which there was no controversy, and that the Tenant had without permission removed the downstairs toilet. In other words, the rent will be determined on the basis that the Property has the same structure and configuration as it was when let.

## MARKET RENT

17 The Property is located at the end of a quiet cul de sac in a semi- rural location on the outskirts of Kenfig Hill a small community a short distance away from Bridgend to the East and Port Talbot, Neath and Swansea to the West. There is convenience shopping in Kenfig Hill and nearby Pyle and a greater variety of shopping in Bridgend.

18 Mr Campbell told us that in October the Rent Officer had registered the rent as £84.45 pw plus the service charge of £1.55. Welsh Government guidance for a four bedroom six person house was £89.65 plus the service charge, ie £91.20 pw. The difference was therefore £5.20 pw. The reason for the appeal was in order to make up that difference. The Landlord had asked for a rent of £100.17 pw (inclusive of the service charge). This was higher than the Welsh Government benchmark rent as that took effect in April 2013 and the rent increase became effective in October 2013. There would then be increases in the benchmark rent in April 2014 and April 2015 but the rent for the Property would remain the same until October 2015. The Landlord had exceeded the guidelines in order to factor in the increases in the benchmark rents before the next increase in rent payable for the Property. They generally make these projections for Rent Act tenants. The Landlord has close links with the Bridgend Council and uses the Housing Benefit rental payment figures as a guide. The Rent Officer had put the market rent at £107.00 pw, ie £463.67 pcm. The local authority would have adopted a figure of £150.00 pw for the purposes of Housing Benefit which is what the Landlord would have hoped to let the Property for. Mr Campbell accepted that this was a figure which covered the whole of the Bridgend area including Porthcawl. He also accepted that in the private market, the prospective tenant would expect carpets and white goods (including in some cases washing machines) to be included. If the Property were a three bedroom house, he would expect the rent to be £86 pw inclusive of the service charge.

19 We mentioned that we were not aware of many three bedroom properties for rent in Kenfig Hill. Those we were aware of were in Evans Street (£575 pcm) Meadow Avenue (£550 pcm) and Park Street (£550 pcm) and a two bedroom semi-detached property in Silurian Way (£525 pcm). We had not inspected these properties.

20 The Tenant told us that some of the properties we mentioned had bigger gardens and that the house in Silurian Way was some distance away. She did not know of anyone wanting to let a property in the area where she lived. There had been a cottage at the end of the street, but she was not aware of the asking rent. There had been another 3 bedroom property with an asking rent of £480 -£490 per month, but the owner had not been able to rent it and sold it. There were no shops nearby. The bus stop was on the main road. People preferred to live in Porthcawl. The Rent Officer had not visited the Property. The local authority treats the Property as a four bedroom house for Housing Benefit purposes.

21 Mr Campbell in reply noted that the Rent Officer appeared to have treated the Property as a two bedroom house. The list of the Rent Officer's comparables submitted with the papers appears to support this contention. We regret that we did not find these helpful. Neither party provided us with any comparables. We are, therefore, entitled to rely upon our own knowledge and experience of the property market.

22 The Rent Officer had put the market rent, before adjustments, at £107 pw. This is not borne out by the market evidence, such as it is, with asking rents between £550 (£127 pw) and £575 pcm (£133 pw). The Tenant's evidence was to the effect that "some" of these houses had bigger gardens and that the Property was less conveniently located than the comparables we mentioned. She also told us that a nearby property had failed to let at £480 - £490 pcm. We were given no details, other

than that it had three bedrooms. We are prepared to accept that rents in Haul Fryn may be lower than elsewhere in Kenfig Hill due to its distance from the shops and the bus stop. Also, ignoring the extension, the small rear garden might be viewed by some prospective tenants as a disadvantage even though there is a side garden which might make up for this. We must also consider that the rents quoted have not yet been achieved. Using our knowledge and experience in order to assess the evidence, we determine the market rent for the Property, on the basis that it is in good repair, and with the white goods, floor furnishings and curtains provided by the Landlord, as would be expected in the open market, to be £500 pcm or £115.00 pw.

#### ADJUSTMENTS

23 The Tenant has provided the kitchen appliances and the floor coverings (except for those in the kitchen) and curtains which modern tenants expect to be provided by the Landlord when taking on a tenancy. In our view it is appropriate to reduce the market rent by £8 pw to allow for this. We determine that the adjusted market rent is £107.00 pw.

#### SCARCITY

24 We are required by the Rent Act 1977 to take into account in assessing a fair rent for the Property whether there is an excess of demand over supply of accommodation such as this in Kenfig Hill and the wider area. In the present economic climate, with fewer people able to purchase properties, there is a consistent demand for rented properties in excess of the number of properties available for rent. This has an effect upon the rents demanded by landlords. In evidence Mr Campbell, explained that the Landlord did not keep its own waiting list. That task is carried out by the Bridgend Council. He is however aware that the Council has a waiting list probably extending to several thousand persons awaiting accommodation. He accepted that there were more people wanting to rent a property in the Bridgend area than there were properties to rent. It was the same in the Bridgend area as it was every else. He could not, however, say the extent that this affected rents as their rents were "regulated".

25 Taking into account Mr Campbell's evidence and also the Tenant's evidence referred to in paragraph 20 above, and applying our own knowledge and experience, we consider that there is a still a strong demand for properties of this type in Kenfig Hill and the wider area. On this point, we agree with the Rent Officer and conclude that it is appropriate to reduce the adjusted market rent by 15% to take this scarcity into account. Accordingly, we have deducted £16.05 pw from the adjusted market rent to reflect this, making the fair rent for the Property £90.95 pw.

#### SERVICE CHARGE

26 The Landlord charges for certain services supplied for the benefit of the Property. We understand that this includes the cost of street lighting as the road is unadopted. We have not seen the tenancy agreement. The service charge works out at £1.55 pw and the Tenant informed us that she was not challenging this. From the details in the Rent Register and from the way he has calculated the maximum fair rent, the Rent Officer appears to have assumed that the service charge is "fixed". Mr Campbell, however, told us that the service charge was varied annually. The Tenant did not challenge this or submit otherwise. If it is varied annually, the charge cannot be fixed as it would in such circumstance have to remain constant for 2 years until the next rent review. On the basis of that evidence we have concluded that the service charge is variable and that the service charge of £1.55 accepted by the Tenant is to be added to the rent making the fair rent £92.50 pw, inclusive of that variable service charge.

## MAXIMUM FAIR RENT

27 We are required to consider whether the provisions of the Rent Acts (Maximum Fair Rent) Order 1999 apply. The existing rent, registered on the 15th September 2011, was £81.66, exclusive of the service charge. The Retail Prices Index (RPI) published for September 2011 was 237.9. The RPI published in October 2013 was 251.9. The relevant increase in the RPI was 14.0. The appropriate enhancement factor in accordance with the Order is 0.05. To calculate the maximum fair rent we apply the formula as set out in the Order as follows:

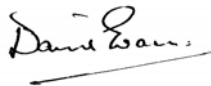
$$\text{Maximum Fair Rent} = £81.66 \times \left(1 + \frac{14.00}{237.9} + 0.05\right) = £90.55$$

Rounding up to the nearest £0.50p, we assess the maximum fair rent to be £91.00 per week exclusive of the service charge of £1.55, making the total payable £92.55 pw. As this is more than the rent we have determined in paragraph 15 above, the Order does not apply in this case.

## DECISION

28 We therefore determine that the fair rent for 25 Haul Fryn, Kenfig Hill, CF33 6 EJ is £92.50 pw, inclusive of the variable service charge of £1.55 pw..

DATED this 17<sup>th</sup> day of December 2013



CHAIRMAN