

Rent Assessment Panel for Wales

Notice of the Rent Assessment Committee Decision		File Reference Number: RAC/0029/07/14 St Mary Street
Address of Premises 25 St Mary Street Cardigan Ceredigion SA43 1DH	The Committee members were S. Povey P. Lucas	
(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.	75.00 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.	30 th October 2014	
(3) The rent is 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: N/A		
Date of decision: <u>30th October 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)		

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RESIDENTIAL PROPERTY TRIBUNAL
RENT ASSESSMENT COMMITTEE
(Rent Act 1977)

Reference: RAC/0029/07/14 St Mary Street

Property: 25 St Mary Street, Cardigan, Ceredigion SA43 1DH

Landlord: Velma Soares

Tenant: Robert Doyle

COMMITTEE: S. Povey
P. Lucas

REASONS FOR THE DECISION OF THE RENT ASSESSMENT COMMITTEE

The registered rent for 25 St Mary Street, Cardigan, Ceredigion SA43 1DH is determined at £75 per week.

The registration of the rent takes effect from 30th October 2014.

Background

1. The Applicant, Velma Soares is the landlord of 25 St Mary Street, Cardigan, Ceredigion SA43 1DH ('the property'). The tenant and Respondent is Robert Doyle. The tenancy of this property began in 1981 and is a protected tenancy under the Rent Act 1977 ('RA 1977').
2. On 16th April 2014, the Applicant applied under s.67 of the RA 1977 for registration of a fair rent. This was the first application in respect of the property. The rent had been £50 per week since 1st February 1993 (with a further £5 charged for water rates). The Applicant sought a new rent of £110 per week.
3. Pursuant to that application, the rent officer registered a rent of £65.50 per week effective from 23rd June 2014.
4. By a letter dated 18th July 2014, the Applicant, through her solicitors, Welch & Co objected to the rent officer's determination. The Rent Officer referred the matter to the Rent Assessment Committee of the Residential Property Tribunal ('the Tribunal').

The Inspection

5. The Tribunal inspected the property on 30th October 2014 in the presence of Mr Doyle and Mr Welch from Welch & Co, who represented the Applicant.

Situation & Description

6. The property comprises a 2 storey end terraced dwelling house situated in an established residential area in the town of Cardigan. The locality is low lying and the property is within relatively close proximity of the River Teifi. The main shopping centre and other major County Town amenities are all within walking distance. The property has frontage to St Mary Street with return frontage and rear frontage to Pwllhai.
7. The property is not located in any form of conservation area.

Construction

8. The building is of traditional solid slate slab construction with most external walls of substantial thickness. The front elevation is smooth rendered whilst the remaining elevations are of exposed slate.
9. The roof covering has recently been replaced with modern fibre slates to the fore, and a mixture of new and reclaimed slates or fibre slates to the flank and rear. The property has its original small paned single glazed sash or box windows throughout apart from to the roof covering where two new Velux double sealed windows have been installed.
10. Attached to the flank elevation of the property is a small single storey lean-to store of solid slate construction under a moss covered slate/fibre slate roof.

Services

11. All mains services are connected. The property is heated by a full gas fired central heating system installed within the last two years. The living room also incorporates a solid fuel fired Rayburn Royal room heater.

Accommodation

12. The accommodation briefly comprises:

Ground Floor

- 12.1. Entrance porch with solid entrance door;
- 12.2. Kitchen/Living Room 5.8m x 4.2m approx. – approached from the central entrance porch and featuring an original chimney fawr with adjacent original bread oven being partly concealed by the Rayburn Royal room heater, original beamed ceiling, two radiators, single drainer stainless steel sink unit, one double corner base unit, small under stairs store, two windows to the front of the property;
- 12.3. Rear Utility Room 4m x 2m – Worcester wall mounted central heating boiler, radiator, original window, low headroom door to rear court;

12.4. The kitchen/living room provides a central staircase leading to the first floor landing area;

First Floor

12.5. Bedroom One (front) 3.8m x 2.5m – single window, radiator, two built-in store cupboards;

12.6. Bedroom Two (front) 3.2m max x 2.85m – L shaped and currently used as a study with work surface installed by Tenant, radiator, single window;

12.7. Bathroom (rear) 3.9m x 2m – containing a sepia coloured suite comprising twin grip panelled bath, pedestal hand basin and low flush WC, radiator, former airing cupboard, radiator;

12.8. From the landing the staircase continues to the large attic;

Attic

12.9. Attic Bedroom Three 5.7m x 4.3m plus 3m x 3m approx. – of split design with split level floor and featuring exposed A frame roof trusses, sash window to side, two Velux double sealed roof lights, two radiators and two ceiling roof hatches.

Outside

13. The property directly fronts the main road. To the rear is a very small triangular shaped court area.

14. The property has no on-site parking. Limited restrictive highway parking facilities are available nearby.

Condition

15. Although no detailed survey was undertaken, at the time of inspection a number of defects were noted.

16. The main property has suffered from historic settlement with the front wall bowing significantly. A number of cracks were noted in the front rendering, several of which were in-filled with moss growth, indicative of existing damp penetration. The flank elevation also incorporated a vertical settlement crack. Faulty guttering and downpipes were also recorded.

17. All of the original window frames are heavily over painted, some illustrate evidence of wood rot and it is suspected that none of these will open readily.

18. Within the interior of the property, evidence of damp penetration was noted in several rooms – particularly those to the front of the dwelling. Whilst dampness is indicative of many properties of solid wall construction, this penetrating dampness has affected the plaster work in places. Window reveals also illustrated evidence of damp penetration where wood rot and woodworm activity were also noted.

19. The solid ground floor and suspended timber first floors are all particularly uneven. Whilst the aging process of a property would normally provide some general deterioration of building elements within the structure, this unevenness was so substantial that it is suspected to be linked with the historic settlement of the property coupled with the generally low lying nature of the site.
20. The staircase to the first floor has no banister support on its right hand side providing a health and safety issue. A loose power point was noted in the first floor front wall of bedroom one – adjacent to faulty plasterwork. The Rayburn within the property was in operation at the time of inspection although the state of its exterior suggested that it may require servicing.
21. The attic bedroom three incorporated significant storage items which it is understood belong to the Respondent. These items limited our inspection of this particular room although once again defects were noted around the flank sash window reveal.
22. The Respondent informed the Tribunal that some of the furnishings and all of the carpets, curtains and blinds were provided by him.
23. Following the inspection, the Tribunal convened its hearing. Mr Welch attended on behalf of the Applicant. The Respondent was accompanied by his friend, Mr Rea. We were addressed by all three and our attention was directed to a number of documents. In reaching our decision, we took into account all the evidence before us and had regard to the parties' respective submissions.

The Law

24. Section 70 of the RA 1977 sets out the factors to be considered when determining a fair rent. In particular, and of relevance to this application, we are required to have regard to the age, character, locality and state of repair of the property.
25. 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 Mr Doyle under the terms of the tenancy; and
 - Any improvements carried out by Mr Doyle, other than as required under the tenancy
26. 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.
27. 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. However, as this was an application for first registration, the provisions of the Maximum Fair Rent Order did not apply.

28. 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.
29. Section 11 of the Landlord and Tenant Act 1985 ('LTA 1985') implies into every tenancy agreement an obligation on the landlord to:
 - Keep in repair the structure and exterior of the property;
 - Keep in repair and proper working order the installations in the property for the supply of water, gas and electricity and for sanitation; and
 - Keep in repair and proper working order the installations in the property for water and space heating.
30. The obligation to repair only arises when there is disrepair and disrepair arises when there is deterioration – i.e. part of the dwelling is in a worse condition than before (Quick v Taff-Ely BC (1986) QB 909).
31. These implied obligations are subject to the landlord being put on reasonable notice of any disrepair to the property and being afforded a reasonable opportunity to address the disrepair. The parties cannot contract out of the landlord's section 11 obligations (by reason of section 12 of the LTA 1985).
32. Knowledge by a landlord's employee or agent (Sheldon v West Bromwich Corporation (1973) 25 P & CR 360) or as a result of a notice under the Housing or Public Health Acts (McGreal v Wake (1984) 269 EG 1254) will suffice to satisfy the test of reasonable notice.
33. In addition, the obligation to 'keep in repair' is a continuing one and includes a duty to put into repair even if the premises were in disrepair at the start of the tenancy: Proudfoot v Hart (1890) 25 QB 42.
34. Both common law and statute afford landlords rights of access for the purposes of both carrying out and inspecting for repairs (see ss8 & 11 LTA 1985, s.148 Rent Act 1977, s.16 HA 1988). The landlord must give reasonable notice (which will be dependent upon the urgency of the repair) and can request the tenant to vacate where repairs can only be undertaken in this way (McGreal v Wake).

Findings of Fact & Conclusions

35. 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.

36. The rent officer had had regard to a range of rents for terraced, semi-detached and detached properties in the SA43 postal area but we were not provided with the addresses of these properties. The rents ranged from £100 to £150 per week. Based upon that evidence, the rent officer set the market rent for the property at £115.38 per week.
37. Mr Welch suggested that it would have been fairer for the rent officer to take an average of the range he had relied upon, which would give a market rent of £122.59. In addition, reliance was placed on further comparable properties in the locality. Mr Welch was of the view that the starting point for an unfurnished three bed property in Cardigan with gas central heating was £125 per week.
38. 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 £115.38 per week was a realistic market rent for this property. But we also felt that £125 per week was too high. Both the rent officer's and the Applicant's comparables included detached properties. We were of the view that these distorted an assessment of the market rent for this property, although we were helpfully provided with more detail from the Applicant's comparables. We concluded on balance that £120 per week was a more realistic market rent.
39. We would expect carpets and curtains to usually be provided by the landlord in a rented property and therefore deducted £10 from the market rent, to reflect this.
40. Central heating had been installed by the Applicant in 2012. The bathroom and kitchen are basic. The bathroom is in fair condition but the kitchen is not. There are very limited work surfaces and storage cabinets. Those that exist are very tired and due for replacement. The whole kitchen is in need of modernising and this would be reflected in the market. We therefore deducted a further £10 from the market rent.
41. As detailed above, the property is in disrepair. The issue for the Tribunal, for the purposes of assessing the rent, is first to determine whether the Applicant or the Respondent is liable for the disrepair. If the Respondent is responsible, we must disregard the disrepair in our assessment of the rent (per section 70(3)(a) Rent Act 1977).
42. In that regard, we made the following findings:
 - 42.1. The Applicant (who lives abroad) visited and inspected the property in 2012;
 - 42.2. The property suffers from penetrating damp around the windows in the living room and kitchen, penetrating damp in the rear utility room on the side wall and around the rear door. This is disrepair to the structure of the property under section 11 of the LTA 1985. We are satisfied, using our expert opinion, that this disrepair would have been reasonably evident when the Applicant inspected the property in 2012;

- 42.3. There is decaying plaster in front bedroom one. This is disrepair to the structure of the property under section 11 of the LTA 1985. There is also a defective plug socket. This is disrepair to an installation for the supply of electricity under section 11 of the LTA 1985. We accept the Respondent's evidence that he drew both of these to the Applicant's attention when she inspected in 2012;
- 42.4. The uneven floors throughout the property are caused by the movement of the property and constitute disrepair to the structure of the property under section 11 of the LTA 1985. We are again satisfied, using our expert opinion, that this disrepair would have been reasonably evident when the Applicant inspected the property in 2012;
- 42.5. There is penetrating damp in the front bedroom two. This is disrepair to the structure of the property under section 11 of the LTA 1985. In the absence of any contrary evidence, we accept the Respondent's submission that he drew this to the Applicant's attention when she inspected in 2012;
- 42.6. There is penetrating damp to the gable end wall, which is disrepair to the structure of the property under section 11 LTA 1985. It was first brought to the Applicant's attention on the day of the hearing, when the Respondent informed Mr Welch of it. At the date of our decision, the Applicant had not had reasonable notice of the disrepair and was not yet liable for the disrepair;
- 42.7. There is evidence of water staining in the attic but no evidence of recent water penetration. On balance, we do not find that the roof is in disrepair.
43. We therefore found that the damp to the gable end and the staining in the attic must be disregarded in assessing the rent. However, the other items of disrepair set out above are the Applicant's responsibility (by virtue of the provisions of section 11 of the LTA 1985) and they remain outstanding. Taking them into account, we deducted £12 from the market rent for the condition of the property.
44. In the current rental market, double glazing (or if a property is listed, secondary glazing) would be expected. Given the overall (but not complete) lack of double glazing, we made a further deduction of £5 from the market rent.
45. On the issue of scarcity, the rent officer made a deduction of 10% (from his already adjusted rent market rent). Mr Welch submitted that there was no scarcity in Cardigan. Rather, there was a plentiful supply of accommodation and low demand, save maybe for bedsits and flats. He provided the Tribunal with an example of a property included in his list of comparables at 4 Ebens Lane, an unfurnished terraced house. We were told that the property had been on the market since June 2014 at a weekly rent of £110.76. It was still on the market at the date of the hearing and the rent had been reduced. In contrast, the Rent Officer, in Mr Welch's submission, had provided no evidence to support his conclusion on scarcity.

46. In response, Mr Doyle submitted that if the property were in good condition, there would be a demand for it and we should make an adjustment accordingly.

47. The Tribunal considered the available market evidence. We found little for let. There are about ten comparable properties for rent, which for a town the size of Cardigan does not, in our expert view, support a conclusion that there is excessive supply. Whilst mindful of the specific example of Ebens Lane relied upon by the Applicant, the overall evidence suggests that whilst there may be a degree of scarcity, the market is more balanced than in other parts of Wales. It is common to apply a scarcity value of 15% to much of the Welsh rental market for the purpose of fair rent assessments. However, it is appropriate to depart from that in this case, based upon the evidence before the Tribunal. As such, we concluded that there is a degree of scarcity for this type of property in Cardigan and applied a scarcity value of 10%.

Calculations

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

Market Rent	£	£
		120.00
Less Adjustments (if appropriate)		
Lack of Central Heating	0.00	
Carpets/Curtains	10.00	
Basic Kitchen/Bathroom	10.00	
Condition	12.00	
Double Glazing	5.00	
Other (specify)	<u>0.00</u>	
	<u>37.00</u>	
Adjusted Market Rent		83.00
Deduct for Scarcity	10%	<u>8.30</u>
Fair Rent (excl services)		74.70
Add services (if any)		0.00
Fair Rent (to nearest 50p)		75.00

49. As explained at paragraph 27, the Maximum Fair Rent Order does not apply as this is an application for first registration.

Conclusion

50. The fair rent for the property is therefore £75 per week.

51. The registration of the rent takes effect from 30th October 2014, the date we reached our decision.

DATED this 27th day of November 2014

A handwritten signature in black ink, appearing to read 'S A Povey', with a stylized flourish at the end.

S A POVEY
CHAIRMAN