

Notice of the Rent Assessment Committee Decision and Register of Rents under Assured Periodic Tenancies (Section 14 Determination)

Housing Act 1988 Section 14

Address of Premises15 Plas Maldwyn, TyGwyn Road,
Caersws, Powys, SY17 5HA**The Committee members were**J Rostron
D K Jones**Landlord**

Mid Wales Housing Association Ltd

AddressTy Canol House, Ffordd Croesawdy, Newtown, Powys,
SY16 1AL**Tenant**

Mr & Mrs Reginald Taylor

1. The rent is:

£105.00

Per

week

(excluding water rates & council tax but including any amounts in paras 3&4)

2. The date the decision takes effect is:

7 April 2014

*3. The amount included for services is

N/A

Per

*4. Services charges are variable and are not included

5. Date assured tenancy commenced

19th August 2008

6. Length of the term or rental period

Weekly

7. Allocation of liability for repairs

Generally; external landlord and internal tenant.

8. Furniture provided by landlord or superior landlord

N/A

9. Description of premises

End terraced bungalow.

Signed by the Chairman of the Rent Assessment Committee.



Date of Decision

8 May 2014

Y TRIBIWNLYS EIDDO PRESWYL

RESIDENTIAL PROPERTY TRIBUNAL (WALES)

RENT ASSESSMENT COMMITTEE

Reference	:	RAC/0032/03/14 Plas Maldwyn
In the Matter of	:	15 Plas Maldwyn, TyGwyn Road, Caersws, Powys, SY17 5HA
Application	:	Section 13(4) of the Housing Act 1988 (as amended)
The Committee	:	Chairman : J. Rostron Valuer Member : D. Jones FRICS
Applicant	:	Mr & Mrs R Taylor
Respondent	:	Mid Wales Housing Association

1. We were duly convened as a Rent Assessment Committee under the provisions of the Housing Act 1988 at the Llandinam Village Hall, School Lane, Llandinam on the 8th May 2014. The Application before us was the reference of a Notice proposing a new rent under an Assured Periodic Tenancy. On the 24th of February 2014 the Landlord, Mid-Wales Housing Association had served a Notice proposing a new rent [excluding services] of £105.03 per week in place of the existing rent of £100.80 per week in respect of 15 Plas Maldwyn, Ty Gwyn Road, Caersws, Powys, SY17 5HA (“the Property”). It was proposed that the starting date for the new rent would be the 7th April 2014. The Tenants, Mr and Mrs Reginald Taylor objected to the increase and gave notice of application, referring the Landlords’ Notice to this Committee.

The Law

2. Section 13(2) of the 1988 Act requires a Landlord seeking to increase the rent of an assured periodic tenancy to serve on the Tenant a notice in the prescribed form proposing a new rent to take effect at the beginning of a new period of the tenancy.
3. For the notice to be valid it must comply with various requirements set out in Section 13(2) of the 1988 Act as amended by the Regulatory Reform (Assured Periodic Tenancies) (Rent Increases) Order 2003.

4. If the notice is valid, Section 14 of the 1988 Act requires the Committee to determine the rent at which it considers the property might reasonably be let in the open market by a willing Landlord under an assured tenancy and in so doing the Committee must disregard the effect on the rental value of any relevant Tenants improvements.
5. Section 13(2) of the 1988 Act confirms (amongst other things) the start date for the proposed new rent must not be earlier than

“(c) if the rent under the tenancy has previously been increased

(ii) the appropriate date”
6. The appropriate date is defined in Sections 13(3)A and 3(B) of the 1988 Act as being a minimum of 52 or 53 weeks after any previous rent increase.
7. Section 13(1)(b) explains the jurisdiction ...” This section applies to – any other periodic tenancy which is an assured tenancy, other than one in relation to which there is provision, for the time being binding upon the Tenant, under which the rent for a particular period of the tenancy, will or may be greater than the rent for an earlier period”.

INSPECTION AND HEARING

8. The Committee inspected the Property on the morning of the 8th May 2014. It is located in Ty Gwyn Road on the out skirts of Caersws. It is in a remote rural location some distance from a major urban centre. The Property forms part of a converted mental hospital and former Victorian workhouse. The properties at Plas Maldwyn were built by a local developer in 2007. It was a scheme originally converted for older people with an interest in buying a flat or bungalow. According to the Landlord a number of flats were sold and Mid Wales Housing Association was offered the unsold units for ‘affordable housing’. The Association purchased the available units in two phases and let them on Assured terms in 2008.
9. The overall building complex is of brick and stone construction over three to four storeys in height with flat elevations. It consists of 34 flats and 6 bungalows. The Property tenanted by the Applicant is one of the bungalows. The property consists of a lounge, kitchen, bathroom, and two bedrooms. There are two allocated car parking spaces. The kitchen contained base and upper units, stainless steel sink and non-slip flooring. The bathroom contained a bath, shower, w.c., sink and non-slip flooring. The Property was heated by an under floor system which was serviced from a boiler linked to an underground heat exchanger. It was double glazed throughout with wooden frames that needed repainting externally. The Property

appeared to have been well maintained by the Tenant and was in good decorative order. The Tenant had provided all carpets, curtains and white goods.

10. The inspection was attended by the Tenant Mr Reginald Taylor and the Landlord who was represented by Mr Aiden Eckerman Director of Customer Services and Mr Charles Brotherton Director of Finance. The same persons attended the hearing
11. The Tenant said in evidence that he was objecting to the rent increase because of the possible confusion in describing his property as a bungalow rather than a flat. The latter being charged at a lower rent. The Tenant expressed no concern at the level of service charge or the quality of such provision.
12. In response Mr Brotherton for the Landlord stated that historically there had been confusion regarding description of the Property. It had been variously described by different statutory bodies as a flat or bungalow. Mr Eckerman for the Landlord said that from their investigations there was no statutory definition of a bungalow. Reference was made to page 1 of the Tenancy agreement executed on 19th August 2008, which describes the property as a semi detached bungalow. Mr Brotherton stated that the property had been registered on 4th September 2008 under the title number CYM413927 at the Land Registry as a ground floor flat. He further referred to the fact that the District Valuer in 2008 refers to the property as a bungalow, valuing it at a premium of some 40% greater than a flat at the same location.
13. Mr Taylor responded by indicating his concern at the confusion as to whether his property should be properly described as a flat or a bungalow. If it was described as a flat it would attract a considerably less rent than if it was described as a bungalow. If it was let as a flat it would attract a rent of £68.78 per week and if let as a bungalow attract £105.03 per week. Reference was made to a recent complaint he had made to the Public Service Ombudsman for Wales asking that when he and his wife moved into the property in August 2008 he was told that the property was a flat but being charged bungalow rent and requesting reimbursement of the overcharge dating back to August 2008. The Ombudsman concluded that the tenancy agreement entered into described the Property as a bungalow and therefore declined to investigate the matter.
14. The Landlord referred to the fact that the other five bungalows in the complex were let on the same rental level as Mr Taylors. They also presented evidence that there are limited opportunities to rent bungalows in the Caersws area and provided a list of comparable

properties to let within 15 miles of Caersws which ranged in rents from £92 to £104 per week. It was emphasised that Plas Maldwyn bungalows have a high SAP rating (energy & environmental rating); significantly higher than other bungalows currently available for rent.

DECISION

15. The Committee considered the varying descriptions of the Property as a flat and bungalow. It considered that whilst the complex was unusual, the Property being attached to a building comprising multi storey flats, it would be reasonable and accurate to describe the property as an end terraced bungalow.
16. In this Application, the Committee is required to determine a Market Rent at which the Property might reasonably be expected to be let by a willing Landlord under a periodic assured tenancy.
17. The Committee accepts that the Property has been unfortunately described by different statutory agencies as a flat and bungalow. From its own knowledge and experience, analysis of comparable evidence it collected and disclosed to the parties [i.e. two bed roomed dwellings for rent in Caersws] the Committee considered that an end terraced bungalow of this type, size and condition in this location and let on the open market unfurnished without carpets, curtains and white goods would be £105.00 per week.
18. The Committee arrives at this figure, (using its knowledge and experience as mentioned above);

Rent for comparable bungalow under an

Assured Periodic Tenancy, £115.00 per week

Less deduction for lack of carpets,

curtains and white goods

and taking account of the

Landlords repairing obligations. £10.00

£105.00 per week

The Committee accordingly determine that the rent should be £105.00 per week and the rent should take effect from the date specified in the Landlords' Notice namely the 7th April 2014. For the purpose of the Housing Act 1988 it is declared that the Committee made its decision on the 8th May 2014.

DATED this Day 28th May 2014

A handwritten signature in black ink, consisting of several overlapping loops and a final horizontal stroke.

Chairman.