

Rent Assessment Panel for Wales

Notice of the Rent Assessment Committee Decision	File Reference Number: RAC/0036/02/19
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Address of Premises Top Flat, 12c Maughan Terrace Penarth, Vale of Glamorgan CF64 1DT.	The Committee members were Richard Payne Anna Harrison
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(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.	£94.35 per week (This amount excludes council tax and water rates but includes any amounts entered in boxes 3-5 below.)
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(2) The effective date is: The new rent will apply from this date.	13 th September 2019
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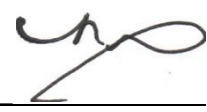
(3) The rent is not to be registered as variable.

(4) The amount for services is:	n/a per
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(5) The amount for fuel charges (excluding heating and lighting of common parts) not counting for rent allowance is:	n/a per
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(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>13th September 2019</u>	 _____ Chairman
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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:

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

Reference: RAC/0035/02/19

Property: Top Flat, 12C Maughan Terrace, Penarth, Vale of Glamorgan, CF64 1DT.

Applicants: Karen Athay

Respondent: Paul Gosling

COMMITTEE: Richard Payne
Anna Harrison

DECISION OF THE RENT ASSESSMENT COMMITTEE

The registered rent for Top Flat, 12C Maughan Terrace, Penarth, Vale of Glamorgan, CF64 1DT (“the property”) is determined at £94.35 per week.

The registration of the rent takes effect from 13th September 2019.

REASONS FOR DECISION.

Background

1. On 26th February 2019, the tribunal received a referral from the Rent Officer Service, being the Applicant’s objection to the proposed registered rent of £94.50 per week. The Applicant had sought a new monthly rent of £525.00. This is equivalent to a rent of £121.15 per week. The Rent Officer had determined a registered rent of £94.50 per week to be effective from 25th January 2019. The previous registered rent was £90.50 per week.
2. The Rent Officer submitted her fair rent valuation calculation, details of rents in other properties in nearby postcodes, (but as is customary, without full addresses) and her re-inspection sheet. The Rent Officer also supplied a letter from the Respondent Mr Gosling received on 17th December 2018 and enclosures that contained a number of comments on the original application to the Rent Officer. The Committee did not have a copy of the original application from the Applicant included in its papers from the Rent Officer service.
3. The re-inspection sheet was dated the 25 January 2019 and recorded that there had been no tenant or landlord improvements since the last inspection on 22 January 2016. It described a crack between wall and ceiling in the bedroom and that at times when the weather blows onto the corner of the

property water runs down the wall. It also recorded that the bedroom light can be turned off and on by knocking the wall and that the hallway and stairway are damp.

4. This Committee invited representations from both parties (see further below). Neither party wished to have an oral hearing and both were content to deal with the matter on the papers. The inspection and determination date was initially scheduled to take place on 25th May 2019 and again on 18th July 2019 but on both occasions had to be postponed owing to ill health of one of the parties.

The Inspection

5. The Committee inspected the property on 13th September 2019 in the presence of Mr Gosling. Mr Richard Hayward (whom the Committee had earlier been informed was the joint owner of the property with the Applicant) was initially present outside but Mr Gosling did not agree to him being admitted to the property for the inspection, as was his right, and so Mr Hayward left. The weather was dry and sunny at the time of our inspection.

Situation and Description

6. The property is located to the eastern edge of Penarth in an area of Victorian terraced housing. It is within easy reach of the marina, local amenities, sea front and the town centre. Maughan Terrace is on a slight hill and no 12 is a three storey terraced property of conventional construction with pebble dash exterior and pitched and tiled roof. The exterior and roof of this row of properties appear to have been renovated previously as a whole. Parking is available without restriction on the street and on the lane to the side of the property.
7. 12c Maughan Terrace is a second (top) floor flat on the corner of the main terrace. Access to the three flats, ground, first and second, is via a front door off the side lane. Access to 12c is then up two flights of relatively steep stairs with a 90-degree bend in each flight. The carpet is worn in places. The accommodation comprises hall, kitchen/ diner, bathroom, lounge and double bedroom. The flat has uPVC double glazing, installed by the tenant we were advised, prior to the ownership of the current landlord. The kitchen is spacious, with two windows to the rear (one with a cracked pane of glass), gas boiler, pantry and fitted with relatively new units and vinyl flooring, paid for by the landlord, whilst white goods are owned by the tenant. The bathroom is internal with an extractor fan. The wash hand basin has been replaced but the bath is chipped and both bath and WC are dated.
8. The lounge has a cupboard and window onto the street at the front with a small crack in the pane of glass. The floor slopes away from the party wall. The double bedroom has three windows, two towards the front and one on the corner with attractive far reaching views across the marina to Cardiff. Slight cracking to the wall was evident but no damp was seen; the weather at the time of inspection was dry and sunny. The flat was mainly carpeted, paid for by the landlord and walls are largely plastered and painted and in fair condition. The property has gas central heating.
9. The property is connected to mains water, gas and electricity.

The Law

10. Section 70 of the Rent Act 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; (the law constrains us from considering the individual's circumstances and affordability.)
 - 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 Committee reached its decision.

Representations before the Committee

15. The Applicant by letter from Richard Hayward Properties dated 15th of March 2019 sent in written representations. These included that the Applicant considered the property to be a two-bedroom flat with the kitchen/living room and a separate bathroom. The Applicant stated that it was understood that the tenant uses the property as such and attached photographs in support of this contention saying that the tenant's daughter uses the second bedroom when she visits. The Applicant said that the Rent Officer had not made reference to there being two bedrooms in their valuation and that this was an important factor in determining the market rent. Further, the applicant submitted that £525 per calendar month was a fair rent for this type of property which was located in a highly desirable area with good transport links, exceptional views across Cardiff Bay and adequate parking nearby. It was again suggested that the Rent Officer had not given sufficient consideration to such factors.
16. The Applicant further made it clear that her valuation of the market rent was based on an unfurnished letting. She stated that she was not aware of any repairs required at the property and commented that the tenant was difficult to deal with and did not allow access to the property. The Applicant also objected to the Rent Officer's adjustment for scarcity and disputed that properties of this type for letting in the area are scarce stating that "our family business alone has 19 similar properties in Maughan Terrace that are comparatively let, with some at a higher market rent than the rent we consider that this property warrants."

17. The Respondent in his pro-forma reply to the tribunal declared that he was happy with the Rent Officer's report and did not wish to send in any further representations. He had previously of course sent in his letter to the Rent Officer received on 17 December 2018 in which he had expressed his disagreement with the "astronomical £40 a week increase in my rent". He referred to misinformation and allegations made against him in the application to the Rent Officer (which this Committee have not seen) and supplied a copy of the previous application for registering a fair rent signed by the Applicant on 3rd December 2015 in which she had recorded that the tenancy began on 8 August 1988. He also sent a copy of an order of the Cardiff County Court dated 17 October 2011 which in addition to declaring the commencement date of the Rent Act tenancy, described how the parties agreed that all contact from that date should be in writing through the offices of the landlord's agent save in an emergency, and it also recorded that the Applicant would repair damp and install carpet and lino to the living room/kitchen and main front bedroom the property.
18. There was reference in the papers from both the Applicant and Respondent to disagreements and counter allegations between them which are of no relevance to the Committee's decision and which we accordingly disregard and pay no heed to.

Assessment of the rent

19. 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. As stated above at paragraph 11, the Committee is constrained from considering the personal circumstances of the parties by law.
20. The Rent Officer had provided information on a range of rents for one bedroom properties in self-contained converted flats and detached and self-contained purpose built flats) in the locality between £64.62 and £173.08 per week, or £280.00 and £750 per month between 22nd of January 2018 and 22nd January 2019. The Rent Officer had considered the market rent to be £120.00 per week or £520 per calendar month. Taking into account all of the evidence, using our own skill and expertise and having regard to the size and location of the property, we agree that £120.00 per week is the appropriate market rent.
21. Upon the Applicant's principal point that this should be valued as a two bedroom flat, we disagree. It is clearly a one bedroom flat with a kitchen/diner, a lounge and bathroom WC. It has four rooms and the small hallway. We assess the rent therefore as a one bedroom flat.
22. We consider that for a market rent a prospective tenant would expect modern bathroom facilities whereas those in the property were basic. The overall condition of the property likewise was in need of updating and the double glazing was old and basic We adjusted the weekly rent by £5, £2 and £2 respectively to reflect this.
23. On the issue of scarcity, the Rent Officer had made a deduction of 15%, from an adjusted market rent of £111.00. We agree that there is a level of scarcity for properties of this nature in the locality, and that a deduction of 15% is appropriate. We were not persuaded by the Applicant's representations on scarcity which in fact appeared to demonstrate the demand for properties of this nature in the locality as all of the Applicant's properties were described as successfully let in their written submissions. We therefore make a deduction of 15% for scarcity. This leaves a fair rent figure of £94.35 per week.

Calculations

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

Market Rent		£	£
			120
Less Adjustments (if appropriate)			
Basic Kitchen/Bathroom		5.00	
Double glazing		2.00	
Condition		2.00	
			<u>9.00</u>
Adjusted Market Rent			111.00
Deduct for Scarcity	15%	<u>16.65</u>	
Fair Rent (excluding services)			<u>94.35</u>
Add services (if any)			<u>00.00</u>
Fair Rent			94.35

25. We calculated the Maximum Fair Rent using the present RPI as at the date of inspection of 289.50 and determined the MFR as being **£106.00 per week**. 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

26. The fair rent for the property is therefore £94.35 per week or £408.85 per calendar month.

27. The registration of the rent takes effect from 13th September 2019, the date we reached our decision.

DATED this 28th day of October 2019



Richard Payne
CHAIRMAN