

Y TRIBIWNLYS EIDDO PRESWYL
RESIDENTIAL PROPERTY TRIBUNAL

Reference: RAC/0008/10/21

In the Matter of 5 Pen-Y-Lan Road, Penylan, Cardiff CF24 3PG

In the matter of an Application under Section 13(4) Housing Act 1988

APPLICANT El Mouloudi Sahlaoui and Malika Zahraoui

RESPONDENT Saddiah Javaid

TRIBUNAL: Mr R Phillips, Chairman
 Mr A Weeks, Surveyor

DECISION

Summary of Decision

1. On 28th January 2022 the Tribunal determined a market rent of £975 per month to take effect from 1st October 2021.

Background

2. The case concerned the determination of a market rent for the subject property following a referral of the Landlord's notice of increase of rent by the Tenant pursuant to sections 13 and 14 Housing Act 1988.
3. On 31st August 2021 the Landlord served a notice under Section 13(2) of the Housing Act 1988 which proposed a new rent of £1200 per month in place of the existing rent of £850 per month to take effect from 1st October 2021. The notice complied with the legal requirements.
4. The Tribunal received an application dated 30th September 2021 from El Mouloudi Sahlaoui under Section 13(4) (a) of the Housing Act 1988.
5. The matter was listed for a hearing and the hearing took place on 28th January 2022 via the Cloud Video Platform and was attended by on the Respondent together with her husband Mr Usman Jura. Mr Jura gave evidence on behalf of the Respondent.
6. At the inspection by the Tribunal Surveyor on 28th January 2022 the Applicant had confirmed that he was aware of the hearing taking place that afternoon and that he did not wish to attend and he was happy for it to proceed in his absence.

7. The Tribunal had been provided with the statement from the Applicant dated 22nd November 2021 and was satisfied that it was able to fairly determine the matter in the absence of the Applicant. The matter would have been, in the opinion of the Tribunal, suitable to have been considered on the documentary evidence alone.

Inspection

8. Mr Andrew Weeks, the Tribunal Surveyor, inspected 5 Pen-Y-Lan Road, Penylan, Cardiff CF24 3PG ("the Property") on 28th January 2022.
9. The property comprises a 3-bedroom mid-terrace Edwardian house. It is of traditional brick construction finished in render to the rear, beneath pitched roof of slate tiles. Windows are a mix of timber and uPVC framed double-glazed units. Internally the ground floor provides two reception rooms, kitchen/diner and shower room. The first floor provides three double bedrooms and family shower room with separate WC. A door off the landing appears to lead up to a second floor or attic, although this door was locked and we were unable to access it, we understand from both parties the attic is not demised to the tenant and is used as storage by the landlord. Externally there is a small courtyard to the rear with two small stone storage buildings.
10. The general condition of the property is poor. In particular, several windows do not appear to lock properly including one to a first-floor rear bedroom which urgently needs to be repaired in order to prevent accident, particularly if children are present. A window to the ground floor rear reception room is cracked. Several windows have condensation damp around them and seals appear to be failing. Condensation is also noted on internal walls. Some windows do not have trickle vents and those that do did not appear to be functioning properly, which may be contributing to the damp problem. Condensation is also noted on internal walls.
11. Plumbing may also be in need of upgrading - the tenant complained of blockages due to the position of pipes in the upstairs WC and the shower room - and the general appearance of pipes around the property are not boxed in and appear to be amateurishly installed.
12. The kitchen is the main item which detracts from the rental value of the property. It is dated and units and worktops are in need of complete replacement; the worktops around the sink are unsound and sagging, and a door is missing from a base unit. Kickboards are also missing.
13. The ground floor shower enclosure has a missing door. The shower room upstairs is in better order.
14. The bedrooms are all doubles and of a good size, but in general need of redecoration.
15. The ground floor reception rooms are typical size for the style of property but again would benefit from redecoration. A new carpet has been laid in one reception room.

16. One of the ground floor reception rooms could potentially be used as a fourth bedroom or study.
17. Ceilings are generally Artex or painted plaster and walls are painted or papered. The kitchen and shower rooms have tiled floors.

Applicant's Evidence

18. The statement of the Applicant dated 22nd November 2021 was before the Tribunal and consisted of details of his financial position and a number of comparables for consideration

Respondent's Evidence

19. The statement of the Respondent dated 23rd November 2021 was before the Tribunal setting out the history of the tenancy, together with a number of comparables for consideration.
20. The Respondent confirmed that there had been no rent increase since the tenancy commenced and confirmed the evidence contained in her statement.
21. The Respondent was of the opinion that the disrepair was in part due to the actions of the Applicant eg. the removal of the island in the kitchen, a lack of cleaning and not looking after the garden.

The Law

22. S14 Determination of Rent

- (1) Where, under subsection (4) (a) of section 13 above, a tenant refers to the appropriate tribunal a notice under subsection (2) of that section, the Tribunal shall determine the rent at which, subject to subsections (2) and (4) below, the Tribunal consider that the dwelling-house concerned might reasonably be expected to be let in the open market by a willing landlord under an assured tenancy-
 - (a) which is a periodic tenancy having the same periods as those of the tenancy to which the notice relates;
 - (b) which begins at the beginning of the new period specified in the notice;
 - (c) the terms of which (other than relating to the amount of the rent) are the same as those of the tenancy to which the notice relates; and
 - (d) in respect of which the same notices, if any, have been given under any of Grounds 1 to 5 of Schedule 2 to this Act, as have been given (or have effect as if given) in relation to the tenancy to which the notice relates.
- (2) In making a determination under this section, there shall be disregarded-
 - (a) any effect on the rent attributable to the granting of a tenancy to a sitting tenant;

- (b) any increase in the value of the dwelling-house attributable to a relevant improvement carried out by a person who at the time it was carried out was the tenant, if the improvement-
 - (i) was carried out otherwise than in pursuance of an obligation to his immediate landlord, or
 - (ii) was carried out pursuant to an obligation to his immediate landlord being an obligation which did not relate to the specific improvement concerned but arose by reference to consent given to the carrying out of that improvement; and
 - (c) any reduction in the value of the dwelling-house attributable to a failure by the tenant to comply with any terms of the tenancy.
- (3) For the purposes of subsection (2)(b) above, in relation to a notice which is referred by a tenant as mentioned in subsection (1) above, an improvement is a relevant improvement if either it was carried out during the tenancy to which the notice relates, or the following conditions are satisfied, namely-
- (a) that it was carried out not more than twenty-one years before the date of service of the notice; and
 - (b) that, at all times during the period beginning when the improvement was carried out and ending on the date of service of the notice, the dwelling-house has been let under an assured tenancy; and
 - (c) that, on the coming to an end of an assured tenancy at any time during that period, the tenant (or, in the case of joint tenants, at least one of them) did not quit.
- (4) In this section "rent" does not include any service charge, within the meaning of section 18 of the Landlord and Tenant Act 1985, but, subject to that, includes any sums payable by the tenant to the landlord on account of the use of furniture, in respect of council tax or for any of the matters referred to in subsection (1) (a) of that section, whether or not those sums are separate from the sums payable for the occupation.

Consideration and Valuation

- 23. The Tribunal is required to determine the rent at which the subject property might reasonably be expected to be let in the open market by a willing Landlord under an assured tenancy. The financial standing of the Applicant is not a consideration in this determination.
- 24. In general terms, in the opinion of the Tribunal, the property is not one that could easily be re-let without first undertaking improvement works, in particular to the kitchen, replacing or repairing windows, addressing damp patches and undertaking general redecoration throughout. The Applicant it may be said is not keeping some parts of the property clean and tidy, though the reception rooms are neatly kept, but mainly the poor condition goes beyond what a tenant could reasonably expect to be responsible for.
- 25. The comparable properties provided by Applicant and the Respondent are useful, although both have been somewhat selective in their choices. The Respondent has

included comparables of all property types ranging from 1-bedroom flats to 4-bedroom houses and whilst these help to paint a general picture of the local rental market, not all of them can be considered relevant. Some of the comparables are also marketed as Houses of Multiple Occupation (HMOs), which the subject property is not. The Respondent has included properties from a variety of locations including several properties in Cyncoed and Penylan which are significantly different locations, as well as comparables from very close by including the same street, as well as inferior areas such as City Road.

26. The Applicant has focused mainly on comparables from streets south of Albany Road and north of Newport Road, which although close by are in a slightly less desirable area.
27. In the judgement and experience of the Tribunal it is clear that there has been rental growth in Cardiff over the last few years and there is a general shortage of rental accommodation. Research by Savills shows that the supply of rental accommodation in Cardiff in Q4 2021 was -42% lower than the 2017-19 average, and rents have grown 8% in the year to November 2021. The market is generally buoyant and all else being equal the Tribunal would expect the market rent to have risen since the original letting.
28. Penylan Road is a popular location, although it is less desirable than streets in Penylan north of Marlborough Road, and is something of a busy cut-through with shops at either end. It has excellent proximity to local amenities on Wellfield Road and Albany Road as well as Roath Park. The property is also relatively large for a 3-bedroom house, although the garden is very small.
29. Based on the comparable evidence and in the judgement and experience of the Tribunal, the Tribunal is satisfied that the Respondent's proposed rent of £1,200 pcm is likely to only be achievable once essential improvements have been carried out and to reflect the current condition of the property there must be a discount applied.
30. A basic refurbishment to put the property into a good but functional standard of accommodation should allow this rent to be achieved. Searching current listings on Rightmove reveals twenty 3-bedroom properties marketed to let within a 0.25 mile radius of the subject property ranging from £930pcm - £1,300pcm. Those at £1,300 pcm appear to be newly refurbished. Those marketed at around £1,000 pcm are generally smaller but crucially appear in better condition with modern kitchens and bathrooms.
31. Having carefully considered the representations from the parties and associated correspondence and documentation and using its own judgement and knowledge of rental values in Penylan, the Tribunal is satisfied that the market rent for the subject property, if let today in a condition that was usual for such an open market letting, would be £1200 per month.
32. Any rental figure would have to reflect the present condition of the Property and the difficulty in letting it, in the Tribunal's opinion a reduction in the open market rental value for the Property of at least £225 would have to be taken into account.

33. The Tribunal is satisfied that realistically for the property in its current condition that a maximum rent of £975 pcm reasonably be expected.
34. The Tribunal directs that the new rent of £975 per month should take effect from 1st October 2021 this being the date in the original notice and there being no evidence before the Tribunal that the tenant would be caused significant hardship if the rent were to commence at that date.

AR Phillips

Tribunal Judge

DATED this 14th day of February 2022

