

**Y TRIBIWNYLS EIDDO PRESWYL**  
**RESIDENTIAL PROPERTY TRIBUNAL**

Reference: RAC/0011/11/21

In the matter of Flat 3, 173 Albany Road, Cardiff, CF24 3NU

In the matter of an application under section 13 (4) Housing Act 1988

APPLICANTS: Mr. Stuart Turner and Mr. James Beauchamp

RESPONDENTS: The Grey House Letting and Property Management Limited

TRIBUNAL: Mr. A. Grant (legal chairman)

Mr. A. Weeks (surveyor)

**Decision**

The tribunal determines that the market rent payable for the property is £780 per calendar month. The new rent is payable from the 4<sup>th</sup> December 2021.

**Reasons**

**Background**

1. This is an application made by Mr. Stuart Turner and Mr. James Beauchamp (“the Applicants”). The application relates to the property known as and situate at Flat 3, 173 Albany Road, Cardiff, CF24 3NU (“The Property”). The Landlord is Mr. Charles Clissold (“the Landlord”). The Property is managed on his behalf by The Grey House Letting and Property Management Limited (“the Respondent”).
2. The Applicants entered occupation of the Property pursuant to the terms of an Assured Shorthold Tenancy Agreement dated the 4<sup>th</sup> April 2018, for a term of 6 months. The rent agreed rent was £695 per month. The contractual tenancy has expired but the Applicants continue to occupy the Property under the terms of a statutory periodic tenancy.

## **The Application**

3. By way of a written notice dated the 8<sup>th</sup> July 2021, The Respondents, on behalf of the Landlord, served a notice pursuant to section 13 (2) of the Housing Act 1988 (“the Act”) proposing that the rent should be increased from the current rent of £695 pcm to a sum of £780 pcm as of the 4<sup>th</sup> December 2021.
4. The Applicants subsequently made an application to this tribunal, pursuant to section 13 (4) of the Act, wherein they requested that the tribunal determine the market rent payable for the Property.
5. The tribunal issued its directions order on the 8<sup>th</sup> December 2021.
6. Both parties have submitted written evidence in accordance with the tribunal’s order for directions.
7. The Applicants rely upon their joint statement dated the 10<sup>th</sup> January 2022. The Respondents rely upon the statement of Michelle Barber dated the 12<sup>th</sup> January 2022.
8. Both parties indicated that they were agreeable to the matter being determined on the papers without a hearing.
9. The Tribunal inspected the Property on the 15<sup>th</sup> March 2022, and the matter was considered on the same date.

## **The Property**

10. The Property is located in the popular Roath area of Cardiff which has a wide range of local amenities within easy walking distance.
11. The Property itself comprises a 2 bedroom flat on the first floor of a converted Victorian end terrace house. It occupies the entirety of the first floor, accessed via a staircase from the main front door.
12. The Property provides two double bedrooms at the front (one of which features a bay window), lounge, shower room with store cupboard and a separate kitchen at the rear.
13. The building is of traditional brick construction beneath a pitched roof of slate tiles. Windows are uPVC framed double glazed units.
14. Heating and hot water are provided by way of a gas fired combination boiler with a mix of dual and single panel wall mounted radiators situated throughout the Property.
15. The general decorative condition of the Property is fair to poor. The Property is not well ventilated and there is evidence of damp condensation throughout the flat with visible black mould to the shower room and the walls of both bedrooms. This may be due to the fact that the windows do not have trickle vents and the shower room does not have an extractor fan.

16. The plumbing is in need of upgrading.
17. The kitchen is of average/basic standard including an electric oven, stainless steel sink and drainer, laminate worktops and space for under counter fridge and washing machine.
18. The shower room is of reasonable size, but would benefit from upgrading including new tiles and grouting, replacement of shower enclosure and tray.

### **The submissions**

19. The Applicants rely upon their joint statement dated the 10<sup>th</sup> January 2022.
20. They submit that when considering the appropriate market rent achievable for the Property, regard should be had to its condition.
21. They point out that, over the course of the tenancy, the shower has leaked resulting in water discharging into the flat below and causing the growth of black mould in the Property. They say that over the years the Landlord has carried out a number of ineffective repairs although it is conceded that a more professional repair was carried out in September 2021.
22. They point to other items of disrepair, such as no working doorbell or intercom. There is also a problem with the drains backing up, causing sewage to enter the Property.
23. They say that the Property suffers from excessive noise due, in part, to poor sound proofing and insulation, but also from several “blown” double glazing units.
24. Finally, they say that the Property is located opposite a very noisy public House.
25. As regards an appropriate rental level for the Property, the Applicants have provided what they consider to be evidence of rents achieved in other comparable properties in the area. These suggest that the appropriate market rent ranges from £695 to £750 pcm in respect of properties of similar size and location, before one takes account of the condition of the Property itself.
26. The Respondent relies upon the evidence of Michelle Barber dated the 12<sup>th</sup> January 2022.
27. As a preliminary point, The Respondent invites the tribunal to dismiss the application on the basis that the rental agreement provides for a contractual rent review mechanism.
28. In the event that the tribunal do not agree that the application should be dismissed, then it is submitted by the Respondent that the correct market rental value should be in the region of £840 per calendar month. In support of that proposition, the Respondent has submitted 6 comparable properties ranging from a lower figure of £790 pcm to the highest figure being £850 pcm.

## Deliberations

29. As a starting point, the tribunal has considered the notice dated the 8<sup>th</sup> July 2021. The tribunal are satisfied that the notice is valid and complies with the requirements of section 13 (2) and (3) of the Act.
30. Notwithstanding the fact that the contractual tenancy includes a mechanism for reviewing the rent, the tribunal notes that we are now dealing with a statutory periodic tenancy. As such, jurisdiction to determine this matter arises by virtue of section 13 (1) (a) of the Act.
31. Having determined those matters, the tribunal must now determine the appropriate rent having regard to those matters set out at section 14 (1) – (3) of the Act.
32. The tribunal finds that generally the comparable evidence supplied by the Applicants tends to rely upon properties which are situated in inferior locations to the subject Property. Although one of the comparables relied upon by the Applicants is situated in Albany road, it is located at the far western end of Albany road where it forms a local high street. It is likely to be situated above a shop and the second bedroom appears to be a single room. The tribunal consider it to be inferior to the subject property.
33. The Respondent has provided comparable properties situated in a mix of locations, some of which are inferior to the location of the subject Property. The tribunal has discounted the property at Oakfield Street as it has 3 bedrooms, and is not considered to be directly comparable.
34. The other comparable properties submitted by the Respondent provide a range of rents between £795 – £825.00 pcm and are considered to be similar for the purposes of comparison. They provide better evidence of appropriate rental levels.
35. Albany road is a popular location and although less desirable than streets in Penylan, North of Marlborough Road, it is better than streets to the south. Although the Property is situated on a busy thoroughfare, it borders on to a mixed - use area where noise is not unusual. Several of the comparable properties are situated in similar positions. It has excellent proximity to local amenities and easy access to Cardiff city centre.
36. Taking the above into account the tribunal considers that if the Property were in good condition, it could attract a rent upward of £825 pcm. However, the subject Property is not in good condition and requires work in a number of areas outlined in the Applicants evidence.
37. Taking into account the rent that could be commended by a property in good condition, and having regard to the disrepair at the property, the tribunal considers that the proposed rent of £780 represents the market value at which the Property could reasonably be let by a willing landlord under an assured tenancy.
38. Accordingly, the tribunal determine the appropriate rental level to be £780 per calendar month commencing on the 4<sup>th</sup> December 2021.

Dated the 25<sup>th</sup> day of March 2022.

A. Grant

Chairman.