

**Y TRIBIWNLYS EIDDO PRESWL**  
**RESIDENTIAL PROPERTY TRIBUNAL**  
**RENT ASSESSMENT COMMITTEE**

Reference: RAC/0004/06/21

In the matter of Flat 5, 138 Abergele Road, Colwyn Bay, LL29 7AP

And in the matter of an Application under section 13(4) of the Housing Act 1988

Applicant: Ms. Danielle Askew

Respondent: Mr. Craig Sibley

Tribunal:	Mr. Andrew Grant	(Chairman)
	Mr. David Jones	(Surveyor)
	Mr. Eifion Jones	(Lay member)

**Decision**

The tribunal determines that the market rent for the subject property is £495 per calendar month commencing on the 10<sup>th</sup> November 2022.

**Reasons**

1. This is an application by Ms. Danielle Askew (“the Applicant”) who is the tenant of the property known as and situate at Flat 5, 138 Abergele Road, Colwyn Bay, LL29 7AP (“the Property”).
2. The Applicant occupies the Property pursuant to the terms of an Assured Shorthold Tenancy agreement which commenced on the 10<sup>th</sup> February 2017. The original term was for a period of 6 months but that has now expired, and the Applicant remains in occupation under the terms of a statutory periodic tenancy.
3. By this application, the Applicant seeks to challenge the notice of increase of the rent which was served upon her by the Respondent on the 17<sup>th</sup> August 2022, which proposed to increase the rent from £350 to £495.00 per calendar month with such increase to take effect from the 10<sup>th</sup> November 2022.

4. The application was dated the 1<sup>st</sup> September 2022. Directions were issued on the 23<sup>rd</sup> September 2022. In compliance with those directions, the Respondent filed and served his evidence in the form of an e mail on the 28<sup>th</sup> September 2022. The Applicant filed and served her evidence in a similar format, and which was dated the 5<sup>th</sup> October 2022.
5. The matter was listed for a determination on the papers as neither party had requested a hearing. The matter was considered on the 20<sup>th</sup> December 2022.

### **Inspection**

6. The surveyor member of the tribunal inspected the property on the morning of the 20<sup>th</sup> December 2022.

### **Location**

7. The Property is situated on a busy through road in the town.

### **The Property**

8. The Premises in which the Property is situated consists of 5 separate flats. The subject Property is situated at the rear of the premises on the second floor.
9. The Property consists of 1 bedroom, living room, shower room and kitchen. The Property is very small. The Property has no rear aspect and has no private parking although on street parking is available on the road adjacent to the Property.
10. The property presented in reasonable condition although there does appear to be some issues with condensation.

### **Submissions**

11. The Housing act 1988 (“the Act”) provides, at section 13 (4), that where a notice of a proposed increase to the rent is served in respect of a tenancy to which section 13 (1) (a) or (b) applies, then the tenant may refer the matter to a tribunal which may, pursuant to section 14 of the Act, determine the rent at which the tribunal considers that the dwelling house concerned might reasonably be expected to be let in the open market by a willing landlord under an assured tenancy taking into account those matters set out at sections 14 (1) (a) – (d).
12. In her application to the tribunal, the Applicant was concerned that the proposed rent was too high given the current level of rent which was being paid by her.

13. By way of support for her application, the Applicant attached various properties by way of comparable evidence which, she submitted, indicated that a suitable range as regards the market rent would be between £375 - £415 per calendar month.
14. As for the Respondent, he submitted what he suggested were a number of comparable properties which indicated that the correct market rent for a property of this type fell within a range of £495 - £650.00 per calendar month.

### **Deliberations.**

15. The tribunal was satisfied that the landlord's notice proposing a new rent was valid and thus it went on to consider the market rental value of the Property.
16. As a general observation, the tribunal was only able to gain limited assistance from the comparable evidence supplied by the parties. The reason for this is that most of the evidence was situated too far away from the subject property and was not reflective of the local market in which the Property is situated.
17. The Applicant only supplied one possible comparable which was in Colwyn Bay and that quoted a rent of £415 per calendar month. The Respondent supplied two comparable properties, the first of which was Conway Road which was offered at £525 per calendar month and the second being York Road which was offered at £650 per calendar month. Therefore, there appeared to be a range between £415 - £650.
18. The tribunal also noted from its own investigations that the ground floor flat at 138 Abergele Road has recently been offered for rent at a rate of £595 per calendar month.
19. As regards the Applicant's evidence, most of the comparable properties put forward were of little assistance as they were too far away and did not reflect local rental levels.
20. The only possible useful comparable was the property which was situated in Colwyn Bay and sought a rent of £415 per calendar month. However, it was clear from the particulars that this property was far smaller than the subject property and this no doubt accounted for the lower rental value which was outside the usual range for rental levels in this area.
21. As regards the Respondent's evidence, the tribunal took the view that the York Road Property did not properly reflect the market rate as it was too high for the location. It considered that the upper range for a property such as the one under consideration would be in the region of £550 per month.
22. When taking into account the considerations above, the tribunal concluded that the appropriate rental level for a similar property in this area would be between £450 - £550 per calendar month.

23. The tribunal took the view that the subject Property would not attract rent at the top end of the range as it was situated on the second floor, was very small, had no garden and had no private parking.
24. However, the tribunal also determined that it would attract a rent which was in excess of the lower end of the range.
25. In those circumstances, the tribunal determine that the proposed rent is not excessive and that the figure of £495 per calendar month represents the current market rental value for the subject Property.
26. Having determined the rental value and in the absence of any evidence of undue hardship, the tribunal determine that the new rent shall commence from the 10<sup>th</sup> November 2022.
27. The tribunal can understand why the Applicant would regard this as a large increase and indeed it is. However, regard must be had to the fact that the rent on this property has not been increased in the last 5 years since the tenancy commenced and the evidence indicates that rental values have increased in that period.

Dated this 19<sup>th</sup> day of January 2023.

Tribunal Judge  
A Grant