

Y TRIBIWNYLS EIDDO PRESWYL
RESIDENTIAL PROPERTY TRIBUNAL

Reference: RAC/0035/02/23

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

In the matter of an application under the Renting Homes (Wales) Act 2016 &

The Renting Homes (Rent Determination) (Converted Contacts) (Wales) Regulations 2022

Tribunal Judge: Ms TE Richards-Clarke

Surveyor member: Mr A Weeks

Lay member: Mrs C Thomas

Applicants: Mr Stuart Turner and Mr James Beauchamp

Representative: In person

Respondent: The Gray House Letting and Property Management Limited on behalf of the Landlord Mr Charles Clissold

Representative: Ms Michelle Barber

Date and Venue of Hearing: 19 May 2023 via CVP Remote Hearing

Decision

The Tribunal determines that the market rent payable for the property is £865 per calendar month. The new rent is payable from the 4th of March 2023.

Reasons

Background

1. The Applicants, Mr Stuart Turner and Mr James Beauchamp occupy the property known as Flat 3, 173 Albany Road, Cardiff, CF24 3NU. The Landlord is Mr. Charles Clissold. The Property is managed on his behalf by The Gray House Letting and Property Management Limited.

2. The Applicants entered occupation of the property pursuant to the terms of an Assured Shorthold Tenancy agreement dated 4 April 2018, for a term of 6 months. The rent was £695 per calendar month. On expiry of the contractual term the Applicants continued to occupy the property under the terms of a statutory periodic tenancy.
3. By way of a written notice the Respondents, on behalf of the Landlord, served a notice pursuant to *section 13 (2) of the Housing Act 1988* proposing that the rent should be increased from the current rent of £695 per calendar month to £880 per calendar month from 4 December 2021.
4. The Applicants made an application to the Residential Property Tribunal Wales, pursuant to *section 13 (4) of the Housing Act 1988*, to request that the Tribunal determine the market rent payable for the property.
5. Following a hearing on 15 March 2022 the Tribunal determined that the market rent payable for the property is £780 per calendar month payable from 4 December 2021. In the decision dated 21 March 2022 the Tribunal noted that the property was not in a good condition and required work in a number of areas, but that if it were in good condition, it could attract a rent upward of £825 per calendar month.
6. *The Renting Homes (Wales) Act 2016* was implemented on 1 December 2022. As a result of this the Applicants statutory periodic tenancy was automatically converted to a periodic standard contract.

The Application

7. On 9 January 2023, the Respondent served a Notice of Variation of Rent in Form RHW 12 [page 10 of the bundle] pursuant to *section 123 Renting Homes (Wales) Act 2016*. This proposed a rent of £880 per calendar month to replace the existing rent of £780 per calendar month from 4 March 2023.
8. On 14 February 2023, the Applicants made an application for determination of the rent to the Tribunal in accordance with *section 3 The Renting Homes (Rent Determination (Converted Contracts) (Wales) Regulations 2022*.
9. On 27 February 2023, the Tribunal issued directions. Both parties have submitted written evidence in accordance with these directions.
10. The Applicants rely upon their joint statement and documents dated 30 March 2023 at pages 84 to 88 of the bundle. The Respondents rely upon the documents statement of Michelle Barber dated 16 March 2023 at pages 43-83 of the bundle.
11. The Tribunal inspected the Property on the morning of 18 May 2023 with the hearing taking place on the afternoon of 18 May 2023 by way of CVP.

The Inspection

12. The property is located in the popular Roath area with a wide range of local amenities within easy walking distance, including shops, restaurants and pubs on Albany Road and Wellfield Road, and Roath Park, one of Cardiff's most popular green spaces. Major supermarkets are located on Colchester Avenue and Newport Road, 1 mile to the east.
13. Albany Road is a busy main thoroughfare through Roath which features Victorian and Edwardian housing at its eastern end and becomes a retail high street further west. The property is just outside the retail centre and in close proximity to a pub, a modern block of affordable housing opposite, a church, and a health surgery.
14. The property 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 and provides two double bedrooms at the front (one of which features a bay window), lounge, shower room with store cupboard, and separate kitchen at the rear.
15. The building is of traditional brick construction beneath a pitched roof of slate tiles. Windows are uPVC framed double-glazed units with Venetian blinds. There is a pitched roof over the bay window.
16. 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 throughout the property. There is a mains-operated smoke detector and battery-operated carbon monoxide alarm in the kitchen.
17. The kitchen is of an average/basic standard for rental accommodation including electric oven, hob, and hood; stainless steel sink and drainer; laminate worktops; space for under-counter fridge and washing machine.
18. The shower room is of a reasonable size but would benefit from regrouting of tiles and replacement plug hole cover in the basin.
19. The bedrooms are both doubles and of a good size, though one is smaller than the other.
20. The general decorative condition of the property is fair to poor. It features papered walls and painted ceilings; floor coverings are carpet, laminate, and tiles to the shower room. Generally, the property is not well ventilated and there is evidence of damp condensation throughout the flat. There also appears to be water ingress, most notably around the bay window. Currently ventilation relies upon the tenants leaving windows open: the windows do not have trickle vents, and the shower room does not have an extractor fan, and this may be contributing to the damp issue.

21. Plumbing to the bathroom has recently been rectified with the shower tray raised to facilitate better drainage. Otherwise, the issues of damp and water ingress, and the general decorative condition of the property remain much as they were in early 2022.
22. The flat would benefit from general refurbishment and redecoration throughout, and though this is not essential to re-letting, at the very least it would need to be professionally cleaned and any black mould removed.

The Hearing

23. Mr Turner on behalf of the Applicants and Ms Barber on behalf of the Respondents attended the hearing. First, the Tribunal outlined the issues set out by Mr Turner in his statement and documents and gave him an opportunity to address the Tribunal. In addition, members of the Tribunal asked Mr Turner about the condition of the property and informed him that three of the comparable rental properties that he relied on had last been marketed in 2018-2019. Next, the Tribunal outlined the issues set out by Ms Barber in her statement and documents and gave her an opportunity to add anything further. Members of the Tribunal also asked Ms Barber questions about the comparable rents she had provided and repairs to the property.

Deliberations

24. It is not in dispute that following the implementation of the Renting Homes (Wales) Act 2016 the Applicants occupation of the property was automatically converted to a periodic standard contract on 1 December 2022. Accordingly, jurisdiction to determine this matter arises by virtue of *regulation 3 The Renting Homes (Rent Determination (Converted Contracts) (Wales) Regulations 2022*.
25. The Tribunal has considered the notice dated 9 January 2023. The validity of this notice is not in dispute and the Tribunal are satisfied that as this is the first notice of variation of rent the notice complies with the requirements of *section 123(1) (2) (3) Renting Homes (Wales) Act 2016*.
26. Therefore, the Tribunal is to determine the rent which the property might reasonably be expected to let in the open market by a willing landlord under the same type of relevant converted contract having regard to *regulation 6 The Renting Homes (Rent Determination (Converted Contracts) (Wales) Regulations 2022*.
27. The Tribunal relied on the expertise of the Surveyor member with regard to the comparable rental properties relied on by the Applicants and the Respondent. The Applicants have provided three comparables taken directly from the website of local agent Moginie James [Bundle page 89-94], which they state were found via a Google web search. Upon closer inspection by the Surveyor Member, while still listed in the agent's website, they do not appear to be current listings. Having investigated the first comparable, Marlborough Road stated as £700 per calendar month using Rightmove Plus

it appears this comparable was marketed at £700 per calendar month in September to October 2018. The third comparable, also Marlborough Road marketed at £750 per calendar month was marketed March - May 2019. The Tribunal therefore disregarded the tenant's comparable from Moginie James in terms of their usefulness to current rental value. The other comparables offered by the tenant are properties from streets with lower rental values and range from £800 - £850 per calendar month [Bundle pages 95-191].

28. The Respondent has included comparable properties from a variety of locations including one flat (Flat 4) in the same building as the subject flat let at £975 per calendar month in May 2022 [Bundle pages 68 -81]. The Respondent also has submitted subsequent information that the rent on this flat has just been renewed at £1,020 per calendar month to the same tenant and whilst this more recent figure is therefore not an open market letting it is still evidence of the tone of rents for 2-bed flats in this location. The other comparables reflect a range of £900 - £950 for flats on Albany Road or slightly inferior streets and the agent states a shortage of rental accommodation in Cardiff is driving rental growth. This is consistent with the Surveyor Member's knowledge of the local rental market.
29. On the basis of the evidence, the Tribunal considered that in good condition the subject property could also achieve a rent upwards of £950 per calendar month.
30. The Applicants also rely on rental data compiled by the Office of National Statistics (ONS) showing an average increase in rental values in Wales of 4.2% in the 12 months to February 2023 [Bundle pages 113-123]. Relying on the expertise of the Surveyor Member the Tribunal considered that the ONS data is Wales-wide which covers a diverse market and does not account for sub-regional variations. The ONS notes that the data measures the change not only in newly agreed rents but changes for all rental properties (i.e., where rents are reviewed for existing tenancies rather than agreed in the open market). By contrast, the Zoopla rental index only measures new lettings and shows a much higher increase of 10.6% for Wales and 10.9% specifically for Cardiff (to January 2023). On balance the Tribunal therefore preferred the Zoopla index as it is more relevant to current market rent and is Cardiff-specific. Based on the Zoopla rental index increase of 10.9% would result in a current rental value of £865 per calendar month. Rightmove data compiled by Savills also shows that the median rent for 2-bedroom properties listed in Cardiff increased 11.6% on an annual basis to Q4 2022, to stand at £977 per calendar month.
31. Generally, the property is typical of much of the rental stock in the local area of this age and style. Given the scarcity of accommodation, in good condition the Tribunal considered the property could achieve a higher rent of £950 per calendar month or more. There are issues which could be rectified relatively easily, but overall, the property is dated and therefore unlikely to command a top rent would and would most likely fall in a range between £850 - £900 per calendar month.

32. Having considered the evidence the Tribunal found that the market rent for a two-bedroom flat in better condition would be achievable in the region of £950 per calendar month. However, this flat is not in good condition and when the Tribunal took account of the rental indices show a 10.9% yearly increase in rent for a two-bedroom flat in the Cardiff area £865 per calendar month fairly reflects the increase in the open market rent.

33. Accordingly, the Tribunal determines the appropriate rental level to be £865 per calendar month commencing on the 4 March 2023.

Dated this 14th day of June 2023

TE Richards - Clarke

Tribunal Judge