

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

**Reference: RAC/0019/10/23**

**In the matter of 33 Glyn Terrace, Tredegar, Blaenau Gwent, NP22 4HX**

**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 Tonya Richards-Clarke

**Surveyor member:** Mr Andrew Lewis BSc FRICS FCI Arb

**Lay member:** Mrs Carole Calvin-Thomas

**Applicant:** Mr Stephan Bassett

**Representative:** In person

**Respondents:** Mr Craig Pendry and Mr Jason Pendry

**Representative:** Mr Leigh McPherson, Louvain Properties

**Date and Venue of Hearing:** 12 March 2024 via Remote Hearing

### **Decision**

**The Tribunal determines that the market rent payable for the property is £0.00 per calendar month payable from 2 December 2023 and then £475.00 per calendar month payable from 2 March 2024.**

### **Reasons for Decision**

#### **Background**

1. The Applicant, Mr Stephan Bassett occupies the property known as 33 Glyn Terrace, Tredegar, Blaenau Gwent, NP22 4HX. The Landlord is Mr Craig Pendry and Mr Jason Pendry. The property is managed by Louvain Properties.
2. The Applicant entered occupation of the property on 2 October 2013. The *Renting Homes (Wales) Act 2016* was implemented on 1 December 2022. As a result of this the Applicant's

statutory periodic tenancy was automatically converted to a periodic standard contract. The initial rent was £368.33 per calendar month.

3. On 21 September 2023, the Respondent served a Notice of Variation of Rent in Form RHW 12 [page 13 of the bundle] pursuant to *section 123 Renting Homes (Wales) Act 2016*. This proposed a rent of £600 per calendar month to replace the existing rent of £368.33 per calendar from 2 December 2023.

### **The Application**

4. On 10 October 2023, the Applicant 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*.
5. On 30 October 2023, the Tribunal issued directions. Both parties have submitted written evidence in accordance with these directions.
6. The Applicant relies upon his statement dated 11 December 2023 at page 74 of the bundle. The Respondents rely upon the statement of Mr Craig Pendry dated 17 November 2023 together with the documents at pages 50-73 of the bundle. The Respondent further relies on documents provided on the day of the hearing including the Gas Safety Report 25 April 2023, Property Inspection Report 23 August 2023, and Electrical Installation Condition Report 6 February 2024.
7. The Tribunal inspected the Property on the morning of 11 March 2024 with the hearing taking place on the afternoon of 11 March 2024 by way of MS Teams.

### **The Legal Framework**

8. *The Renting Homes (Rent Determination) (Converted Contracts) (Wales) Regulations 2022* provides as follows:

***Determination of rent by a rent assessment committee.***

*4. A rent assessment committee must determine all applications made under regulation 3 in accordance with the assumptions set out in regulation 6.*

***Variation of rent upon a determination by a rent assessment committee***

*5. A rent determined by a rent assessment committee, in accordance with the assumptions set out in regulation 6, will be the rent for the dwelling under the relevant converted contract with effect from the date specified in the notice under section 104 or 123 of the Act, unless the landlord and the relevant contract-holder otherwise agree.*

***Assumptions in accordance with which a rent assessment committee must determine rent.***

6. When making a determination of rent for a dwelling under these Regulations, a rent assessment committee must determine the rent at which it considers the dwelling concerned might reasonably be expected to be let in the open market by a willing landlord under the same type of relevant converted contract as that to which the notice under section 104 or 123 of the Act relates, assuming that—

(a) the relevant converted contract begins on the date specified in the notice under section 104 or 123 of the Act,

(b) the granting of a contract to a sitting contract-holder has no effect on the rent,

(c) any increase in the value of the dwelling attributable to a relevant improvement carried out by a person who at the time it was carried out was the relevant tenant or licensee or relevant contract-holder has no effect on the rent, if the improvement was carried out—

(i) otherwise, than in pursuance of an obligation to the immediate landlord, or

(ii) pursuant to an obligation to the 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,

(d) any reduction in the value of the dwelling attributable to a failure by the relevant tenant or licensee or relevant contract-holder to comply with any terms of the relevant preceding tenancy or licence or relevant converted contract has no effect on the rent,

9. The Renting Homes (Wales) Act 2016 sets out at section 91 the

**Landlord's obligation: fitness for human habitation**

91 (1) The landlord under a secure contract, a periodic standard contract or a fixed term standard contract made for a term of less than seven years must ensure that the dwelling is fit for human habitation—

(a) on the occupation date of the contract, and

(b) for the duration of the contract.

10. The relevant provisions of *The Renting Homes (Fitness for Human Habitation) (Wales) Regulations 2022* provide at Regulation 3 that “in determining whether a dwelling is fit for human habitation, regard must be had to the presence or occurrence, or the likely presence or occurrence of the matters and circumstance listed in the Schedule” and Regulation 5 provides that:

**5.- Smoke alarms and carbon monoxide alarms**

(1) The landlord must ensure that, during each period of occupation, on each storey of the dwelling there is a smoke alarm which is—

(a) in repair and proper working order,

(b) connected to the dwelling's electrical supply, and

(c) linked to every other smoke alarm in the dwelling which is connected to the electrical supply

11. In accordance with *Regulation 7* for converted contracts that "*period of occupation*" means the period—
  - (a) starting with the day which is 12 months after the conversion date, and
  - (b) ending when the contract ends.
12. The *Fitness of homes for human habitation: guidance for landlords* first published by the Welsh Government on 13 January 2022 explains what landlords must do from 1 December 2022 to ensure that their property is in good repair and fit for human habitation.

### **The Hearing**

13. First, the Tribunal outlined the law as set out above and asked for clarification as to when the smoke alarm connected to the property's electrical supply had been installed in the property. The Tribunal permitted time for liaison with the Respondent landlord, and it was established that the date of installation was 6 February 2024. Prior to this date, as can be seen in the Property Inspection Report 23 August 2023, there was a battery-operated smoke alarm at the property.
14. The Tribunal indicated that the specified day for the determination of the rent here is 2 December 2023 and that in accordance with *The Renting Homes (Fitness for Human Habitation) (Wales) Regulations 2022* the property was not fit for human habitation at this date due to the lack of a smoke alarm connected to the property's electrical supply. The Tribunal further indicated that the Tribunal must determine the rent in accordance with the provisions of *regulations 3-6 of The Renting Homes (Rent Determination) (Converted Contracts) (Wales) Regulations 2022*. The Tribunal allowed time for a short adjournment. On return both parties stated that they wished to proceed.
15. The Surveyor Member outlined details of the inspection and considered the comparables provided by the parties. The Tribunal heard submissions from both parties. The Tribunal reserved its decision.

### **Deliberations**

16. It is not in dispute that following the implementation of the Renting Homes (Wales) Act 2016 the Applicant's 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*.
17. The Tribunal has considered the notice dated 21 September 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*.

18. 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*.
19. In accordance with the *s91 Renting Homes (Wales) Act 2016* and *Regulation 3 The Renting Homes (Fitness for Human Habitation) (Wales) Regulations 2022* the Tribunal must have regard to the presence of a smoke alarm on each storey of the property in working order connected to the property's electrical supply as is required under *Regulation 5*. As the Applicant occupies the property under a converted contract compliance with *Regulation 5* is required starting with the day which is 12 months after the conversion date; that is 2 December 2023: *Regulation 7 (1)*. The Tribunal therefore found that on this date there was not a smoke alarm on each storey of the property in working order connected to the property's electrical supply. The Tribunal further found that the installation date of smoke alarms compliant with *Regulation 5* was on or around 6 February 2024.
20. The occupation of the property by the applicant is specifically to be excluded from the consideration of the open market rental value as defined within the assumptions set out in *regulation 6 The Renting Homes (Rent Determination (Converted Contracts) (Wales) Regulations 2022*. Within the periodic occupation contract signed by the parties, the tenant is not allowed to deal i.e. assign or sublet the property (Clause 2.20) or have lodgers (Clause 2.13). Therefore, it is to be assumed that the property was vacant on 2 December 2023. As already noted above it was incapable of occupation as a dwelling on 2 December 2023, as it was unfit for human habitation, as set out in *Regulation 5 of The Renting Homes (Fitness for Human Habitation) (Wales) Regulations 2022*.
21. Therefore, the property could not be let as a dwelling under the same type of converted period contract. It follows that the rent which the property might reasonably be expected to be let in the open market by a willing landlord is £0.00 (nil rent) until such time that the *Renting Homes (Fitness for Human Habitation) (Wales) Regulations 2022* are complied with.
22. With respect to the rental value of the property from when the smoke detectors are operational and compliant with *Regulation 5 of The Renting Homes (Fitness for Human Habitation) (Wales) Regulations 2022*. The Tribunal noted that the existing rent is £368.33 per calendar month. The property a few doors away was let 18 months previously at £450.00 per calendar month and therefore some uplift since that time would be necessary. The comparables advanced by the landlord's agent and identified by the Tribunal Surveyor are all at around £600-£650 per calendar month. However, these are recently refurbished units with new central heating systems. Therefore, the Tribunal assessed that the rental value of this property to be in the region of £475.00 per calendar month. This shows an uplift on the passing rent but recognises the deficiencies with the central heating and the dampness noted in a few areas.

23. Accordingly, the Tribunal determines the appropriate rental level to be £0.00 per calendar month commencing on 2 December 2023 and then £475.00 commencing on 2 March 2024.

Dated this 10<sup>th</sup> day of May 2024

T Richards-Clarke  
Tribunal Judge