



**FIRST-TIER TRIBUNAL  
PROPERTY CHAMBER  
(RESIDENTIAL PROPERTY)**

**Case Reference** : CAM/22UG/MNR/2018/0035

**Property** : 37 Trafalgar Road, Lexden, Colchester CO3 9AS

**Applicant/Tenant** : Ms Louisa Ranu

**Respondent/Landlord** : Ms Linda Moynihan

**Type of Application** : Determination of market rent under an assured periodic tenancy [HA 1988,SS.13 & 14]

**Tribunal Members** : G K Sinclair & G F Smith MRICS FAAV REV

**Date of determination** : Monday 14<sup>th</sup> January 2019

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**DECISION**

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1. The rent proposed by the landlord's notice of increase dated 17<sup>th</sup> September 2018 is £950 per month from 27<sup>th</sup> October 2018.
2. As confirmed by the Notice of Decision of equal date which is served with this decision, the tribunal determines that the passing rent of £850 per month is the market rent for the subject property, taking into account its age, condition and appearance, and the terms of the tenancy so far as known.
3. Were it not for the tenancy permitting the tenant to keep a dog the market rent

would be assessed in the sum of £825 per month.

### **The subject property**

4. The property is a mid-terrace ex-local authority 3-bedroom house in a cul-de-sac road off the main London Road at Lexden, Colchester. The adjoining houses are a mixture of local authority/social housing and properties purchased under the Right to Buy. A primary school is located at the end of Trafalgar Road, which suggests that at least twice per day during school terms the road becomes much busier and noisier.
5. The property enjoys off-road parking at the front but, as is typical of mid-terrace houses, is subject to neighbours' right to pass and repass on foot immediately to the rear, between the house and the fenced-off long, narrow rear garden – all of which is laid to grass.
6. Internally, the ground floor comprises a lobby entrance at the foot of the stairs, leading to a lounge and through that to the kitchen/diner and downstairs WC to the rear. Upstairs are three bedrooms (two double) plus bathroom with over-bath shower. The kitchen floor had loose vinyl strips and replacement was pending. Both kitchen and bathroom look in need of modernisation prior to any reletting. Windows and external doors throughout are of double glazed PVCu construction.
7. There are no relevant tenant improvements for which any adjustment to the rent level is required to be made.

### **Past rent levels**

8. According to the written information provided the tenant has paid the following rents :

<i>From</i>	<i>To</i>	<i>Period</i>	<i>Rent</i>
27/07/09	26/07/10	1 year	£650.00
27/07/10	26/07/11	1 year	£675.00
27/07/11	26/10/13	2 years 3 months	£700.00
27/10/13	26/06/16	2 years 8 months	£725.00
27/06/16	26/01/17	7 months	£750.00
27/01/17	26/10/18	1 year 9 months	£850.00

9. The rent increase that took place on 27<sup>th</sup> January 2017, only 7 months after the rent had last been increased, was non-compliant with section 13 of the Housing Act 1988. The documentation suggests that the increase in May 2016 was also non-compliant, but the tribunal cannot be certain.

### **Market value evidence**

10. Although the landlord made much in her written submissions of the schools and other facilities within the immediate Lexden/Stanway area and of how she had

studied the local rental market she did not seek to produce or refer to any specific comparables to demonstrate the market level for properties of a similar nature. Neither did the tenant. The tribunal was therefore left to find its own on-line comparables from the usual residential letting sites.

11. The tribunal relied upon the following properties found on-line that morning :
  - a. London Road (within 1/2 mile) – semi-detached in better condition, wood floors throughout, better kitchen, similar garden & garage : £925
  - b. London Road (within 1/2 mile) – semi-detached, new kitchen, carpeted, best condition seen, better garden, off-road parking : £900
  - c. Monkwick Avenue (2.7 miles) – mid-terrace, more modern, laminate floor, modern kitchen, utility/sunroom to rear, similar garden, off-road parking : £850
  - d. [location unknown] – end terrace, laminate floor, some carpeting, modern kitchen and bathroom, small garden, off-road parking : £875

### **Discussion**

12. By comparison with the above the subject property does not look so attractive either externally or internally. Carpets need replacement and the kitchen and bathroom look tired. The comparable properties are more likely to attract tenant interest than the subject property. One thing it does have going for it at present, however, is the willingness of the landlord to accept a tenant with a dog. That is likely to add £20–£25 per month to the rent.
13. Even saying that, the tribunal considers that the current rent of £850 per month is at the top end of the market for properties of this type and condition within this geographical area. Those comparables seen are far more attractive, yet even they do not command the £950 per month sought by the landlord.
14. The tribunal therefore determines that the passing rent is at the market rent level already and it shall continue, formally (for the purposes of section 13), as from 27<sup>th</sup> October 2018.

Dated 14<sup>th</sup> January 2019

*Graham Sinclair*

Graham Sinclair  
First-tier Tribunal Judge