



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

Case Reference : **CHI/24UP/MNR/2018/0075**

Property : **5 St Catherines Road
Winchester
Hampshire
SO23 0PP**

Applicant : **Mr P M Broomfield**

Representative : **None**

Respondent : **Dorrington Residential Ltd**

Representative : **Allsop Letting & Management Ltd**

Type of Application : **Determination of a Market Rent
sections 13 & 14 of the Housing Act
1988**

Tribunal Members : **Mr I R Perry BSc FRICS
Mrs J E Coupe FRICS**

Date of Inspection : **8th January 2019**

Date of Decision : **8th January 2019**

DECISION

Summary of Decision

1. On 8th January 2019 the Tribunal determined a market rent of £115.50 per week to take effect from 3rd December 2018.

Background

2. The case concerned the determination of a market rent for the subject property following a referral of the Landlord's notice of increase of rent by the Tenant pursuant to sections 13 and 14 Housing Act 1988.
3. On 12th October 2018 the Landlord served a notice under Section 13(2) of the Housing Act 1988 which proposed a new rent of £127.06 per week equating to £550.60 per month in place of the existing rent of £115.50 per week which equates to £500.50 per month to take effect from 3rd December 2018. The notice complied with the legal requirements.
4. On 7th November 2018 the Tribunal received an application from the Tenant under Section 13(4) (a) of the Housing Act 1988.
5. The Tribunal office informed the parties that the Tribunal intended to determine the rent on the basis of an inspection of the property and written representations subject to the parties requesting an oral hearing. No request was made by the parties for a hearing. The parties submitted written representations, copies of which were sent to each other.

Inspection

6. On 8th January 2019 the Tribunal inspected the property accompanied by the Tenant Mr Broomfield. The Landlord nor his Agent was present.
7. The Tribunal found the property to be an inner terraced house built of brick elevations beneath a slate roof situated in an area of similar houses probably built before 1914. The property is situated about 600 metres from the centre of Winchester, on the south eastern side of the town.
8. The accommodation includes a hall, sitting room and living room leading into a scullery at ground floor. Stairs rise from the hall to a landing giving access to two double bedrooms. A third single bedroom is reached by passing through the rear double bedroom. Outside there is a wc, a small garden to the front and a reasonable sized garden to the rear with vehicular access.
9. The property is in an unmodernised condition and lacks basic amenities. Windows are original sash windows some of which are stuck closed. There is no bath, shower or internal wc. The only heating is from independent electric fires. The sink in the scullery has a cold tap only and there is no hot water supply.

10. All the white goods, curtains and carpets are supplied by the Tenant who has maintained the internal decorations in a generally good condition.

The law

S14 Determination of Rent by First-tier Tribunal

- (1) Where, under subsection (4) (a) of section 13 above, a tenant refers to a First-tier Tribunal a notice under subsection (2) of that section, the Tribunal shall determine the rent at which, subject to subsections (2) and (4) below, the Tribunal consider that the dwelling-house concerned might reasonably be expected to be let in the open market by a willing landlord under an assured tenancy-
 - (a) which is a periodic tenancy having the same periods as those of the tenancy to which the notice relates;
 - (b) which begins at the beginning of the new period specified in the notice;
 - (c) the terms of which (other than relating to the amount of the rent) are the same as those of the tenancy to which the notice relates; and
 - (d) in respect of which the same notices, if any, have been given under any of Grounds 1 to 5 of Schedule 2 to this Act, as have been given (or have effect as if given) in relation to the tenancy to which the notice relates.
- (2) In making a determination under this section, there shall be disregarded-
 - (a) any effect on the rent attributable to the granting of a tenancy to a sitting tenant;
 - (b) any increase in the value of the dwelling-house attributable to a relevant improvement carried out by a person who at the time it was carried out was the tenant, if the improvement-
 - (i) was carried out otherwise than in pursuance of an obligation to his immediate landlord, or
 - (ii) was carried out pursuant to an obligation to his 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; and
 - (c) any reduction in the value of the dwelling-house attributable to a failure by the tenant to comply with any terms of the tenancy.
- (3) For the purposes of subsection (2)(b) above, in relation to a notice which is referred by a tenant as mentioned in subsection (1) above, an improvement is a relevant improvement if either it was carried out during the tenancy to which the notice relates, or the following conditions are satisfied, namely-

- (a) that it was carried out not more than twenty-one years before the date of service of the notice; and
 - (b) that, at all times during the period beginning when the improvement was carried out and ending on the date of service of the notice, the dwelling-house has been let under an assured tenancy; and
 - (c) that, on the coming to an end of an assured tenancy at any time during that period, the tenant (or, in the case of joint tenants, at least one of them) did not quit.
- (4) In this section "rent" does not include any service charge, within the meaning of section 18 of the Landlord and Tenant Act 1985, but, subject to that, includes any sums payable by the tenant to the landlord on account of the use of furniture, in respect of council tax or for any of the matters referred to in subsection (1) (a) of that section, whether or not those sums are separate from the sums payable for the occupation.

Consideration and Valuation

- 11. The Tribunal is required to determine the rent at which the subject property might reasonably be expected to be let in the open market by a willing Landlord under an assured tenancy. The personal circumstances of the Tenant are not relevant to this issue.
- 12. Having carefully considered the representations from the parties and associated correspondence and using its own judgement and knowledge of rental values in Winchester the Tribunal decided that the market rent for the subject property if let today in a condition that was usual for such an open market letting would be £1100 per month equating to £254 per week.
- 13. However the property is not in such condition as would command this level of rent and the Tribunal decided it should make a number of adjustments comprising £100 per month for lack of heating, £100 per month for lack of hot water, £150 per month for lack of bathing facilities, £100 per month for outside wc, £80 per month for lack of adequate kitchen facilities, £30 per month to reflect access to bedroom 3 being through bedroom 2, £20 per month to reflect tenants provision of curtains carpets and white goods amenities and £20 per month to reflect inadequate electrical supplies.
- 14. Accordingly the open market rent is to be reduced by the following.

Lack of heating	£100
Lack of hot water	£100
Lack of bathing facility	£150
External wc	£100
Inadequate kitchen	£ 80
Access to bedroom 3 via bedroom 2	£ 30

Tenants provision of carpets and curtains	£ 20
Inadequate electrical supply	£ 20
TOTAL	<u>£600</u>

15. The Tenant made no representation that the starting date for the new rent specified in the Landlord's notice would cause the Tenant undue hardship.

Determination

16. The Tribunal therefore decided that the rent at which the subject property might reasonably be expected to be let in the open market by a willing Landlord under the terms of this assured tenancy was £115.50 per week equating to £500 per month.
17. The Tribunal directed that the new rent of £115.50 per week should take effect from 3rd December 2018.

Chairman: I R Perry BSc FRICS

Date: 8th January 2019

RIGHTS OF APPEAL

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application to the First-tier Tribunal at the Regional office which has been dealing with the case.
2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.
3. If the person wishing to appeal does not comply with the 28-day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.

The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.