



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

**Case Reference** : **CHI/29UN/MNR/2018/0076**

**Property** : **5 Hazeldell Cottages, Thanet Road,  
Margate CT9 1UD**

**Applicant** : **Mr J Horton - Tenant**

**Representative** : **None**

**Respondent** : **Dorepark Ltd - Landlord**

**Representative** : **Lovetts – Managing Agent**

**Type of Application** : **Housing Act 1988 – Section 13  
Appeal of Notice of Rent increase**

**Tribunal Members** : **R T Athow FRICS MIRPM – Chairman  
P A Gammon MBE BA (Lay Member)**

**Date of Inspection** : **8<sup>th</sup> January 2019**

**Date of Decision** : **8<sup>th</sup> January 2019**

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**DECISION**

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## **Background**

1. The tenant of the above property referred to the Tribunal a notice of increase of rent served by the landlord under section 13 of the Housing Act 1988. His application was undated, but was received by the Tribunal on 9<sup>th</sup> November 2018.
2. The landlord's notice, which proposed a rent of £625.00 per month with effect from 30<sup>th</sup> November 2018, is dated 20<sup>th</sup> October 2018.
3. The tenancy commenced on 30<sup>th</sup> August 2015 at a rent of £575.00 per month and is a statutory periodic tenancy. The current rent payable is £590.00 per month with effect from 30<sup>th</sup> May 2016.
4. The Tribunal were provided with a copy of the tenancy agreement with the application.

## **Inspection**

5. The Tribunal inspected the property on 8<sup>th</sup> January 2019 in the presence of Mr Horton and it appeared to be in fair condition for its age and character. No representative from the landlord attended the inspection.
6. It is a mid-terrace house converted from a warehouse several years ago. It is set in a cramped position to the rear of other houses in Thanet Road, about ¼ mile from the town centre. The property is approached off an unmade gravel road, and uneven footpath. There is no garden area either to the front or rear. There is no car parking space.
7. The accommodation comprises entrance lobby and an open-plan living/dining/kitchen on the ground floor, and 2 bedrooms and a combined bathroom/WC on the first floor. The kitchen area has fitted base and wall units, stainless steel sink, electric 4 ring hob, electric built-in oven, and extractor hood. The bathroom has a panelled bath with electric shower unit over, pedestal wash basin, low level WC, and partly tiled walls.
8. There are electric panel radiators in the two bedrooms and living area, and an electric towel rail in the bathroom/WC. These have a central control panel in the living area. Hot water is provided by an immersion heater. There are uPVC double glazed windows and entrance door.
9. The outlook from the living room was poor due to there being a high wall about 2 metres away from the front of the property. There is a very small window in the kitchen area which does not open, and this is at high level; there is no outlook from this. Upstairs the ceilings are low and windows small. All of this results in an absence of good natural lighting and ventilation throughout the property. There is only one entrance to the property.

10. The Tribunal noted mould around the window reveal in the rear bedroom. This was close to an area of the broken guttering.
11. Mains electricity, and water are connected. Foul drainage is to the mains. There is no gas supply to the cottage.
12. The tenant has not made any improvements to significantly affect the rental value.
13. The tenant has provided the fridge/freezer, washing machine and tumble dryer in the kitchen as well as curtains.

### **Statements & Evidence**

14. The Tribunal issued Standard Directions on 16<sup>th</sup> November. These gave 14 days (i.e. 30<sup>th</sup> November) for the landlord to make a formal statement setting out the landlord's case and include comparable evidence. Within 28 days (i.e. 14<sup>th</sup> December) of the Directions the tenant was required to state what he felt the rent should be, and include comparable evidence, and list any improvements he has made to the property.
15. The Tribunal received written representations from Mr Horton (the tenant) dated 13<sup>th</sup> December 2018 and these were copied to the landlord.
16. No written representations were received from the landlord.

### **The Hearing**

17. Mr Horton requested a hearing at which oral representations could be made.
18. The hearing took place on the day of the inspection and was held in Margate Law Courts. Mr Horton was in attendance, but the landlord was neither present nor represented at the hearing.

### **The Applicant's Case**

19. Mr Horton stated that he thought the property had been converted about 15 years ago, and much of the current fixtures and fittings are the original.
20. During his tenancy there have been three different owners of the property; the current landlord bought during the summer of 2017.
21. The landlord had employed managing agents, but whenever the tenant reported repairs requiring attention they never seemed to get done. The tenant paid his rent by Standing Order, but one agent went out of business

and the landlord did not inform him of this. The effect was that he continued to pay rent into a bank account of a non-trading agent for a few months.

22. Eventually, Lovett's contacted him and told him of the situation and that they had now been appointed as Managing Agents.
23. Since then Mr Horton has paid rent by Standing Order to Lovetts and reported wants of repairs to them, but frequently nothing has been done. He is unable to contact the landlord direct as he does not have his full address.
24. There was no instruction manual with the radiator heating system. He requested a copy from the landlord, but none has been provided. He has looked on the internet, but cannot find any. As a result he is unable to programme the radiators to work efficiently and cost effectively. If he does use them his electricity consumption is exceedingly high and unaffordable, in the region of £10.00 per day.
25. There is damp ingress showing in the window reveal of the rear bedroom. This is close to the area where there is a broken gutter on the rear elevation. Mr Horton feels this is potentially the cause of the damp ingress. He reported this to the previous landlord's agent, but nothing was done. He has reported this to Lovetts when they were appointed and since then nothing has been done in spite of the agents inspecting the issue.
26. A neighbour reported a wasps nest was seen on the rear elevation. Mr Horton reported this to Lovetts and someone inspected this area, but could not find any signs of the nest. Nobody has looked into the loft area to see if there is a nest inside the roof space.
27. The carpets on the stairs are worn and are a trip hazard.
28. Mr Horton had spoken to the agents in 2017 when they served a Notice of Increase. They stated that the rent proposed at that time was in line with rents in Thanet Road and similar areas of Margate. Mr Horton explained that the property is not in Thanet Road, but it is in a poorer location. Properties in Thanet Road are in a better location with access off the main street, with gardens, rear access, gas, larger in size and 3 bedroomed accommodation. There is on street parking (residents permit required), The subject house had none of those features. As a result the rent was not increased at that time.
29. The subject property has a small floor area, small windows and only one entrance, which in Mr Horton's opinion posed as a potential fire hazard.
30. Previous owners provided electric safety test certificates each year, but none had been provided since the current landlord had taken ownership.

31. Mr Horton is denied quiet enjoyment of the property as it is on market now and going to auction. Mr Horton does not know when or who the auctioneer is. He is regularly disturbed by people knocking on the door asking to look round.
32. Regarding comparable rents, Mr Horton stated that No 1 Hazeldell Cottages (i.e. his immediate neighbour) has a similar layout but has gas fired central heating, a higher roof, 3 bedrooms, courtyard & rear access with a rent of £600 per month.
33. No 2 has 3 bedrooms (the 3<sup>rd</sup> is a box-room), Gas fired central heating, courtyard & rear access. The rent paid on this is £600 per month.
34. The numbering of the terrace is not logical; left to right from the front it is 2, 1, 5, 4, 3.
35. Number 1, 2, and 3 have gas. 4 and 5 does not.
36. Mr Horton stated that he thinks the rent ought to be £590-600 per month if the property were in good repair and condition with a cost effective heating system.

### **The Respondent's Case**

37. No written representations were received from the landlord and nobody attended the hearing.

### **The Law**

38. In accordance with the terms of section 14 Housing Act 1988 (The Act) the Tribunal proceeded to determine the rent at which it considered that the subject property might reasonably be expected to be let on the open market by a willing landlord under an assured tenancy exclusive of water rates and/or council tax.
39. In so doing the Tribunal, as required by section 14(1), ignored the effect on the rental value of the property of any relevant tenant's improvements as defined in section 14(2) of that Act. The Tribunal cites the relevant section below:
40. *“14.—(1) Where, under subsection (4)(a) of section 13 above, a tenant refers to a rent assessment committee a notice under subsection (2) of that section, the committee shall determine the rent at which, subject to subsections (2) and (4) below, the committee 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—*
- (e) *.....*
  - (f) *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,.....”*

41. On 1<sup>st</sup> July 2013 the rent assessment committee became part of the First Tier Tribunal (Property Chamber) and all references in this decision refer to this Tribunal.

## **Valuation**

42. In the first instance and in accordance with Section 14 of the Act (see above), the Tribunal determined what rent the landlord could reasonably be expected to obtain for the property in the open market if it were let today on an Assured Tenancy in the condition that is considered usual for such an open market letting exclusive of water rates and council tax.

43. The letting market has grown substantially in recent years and there is now ample evidence of open market rents for Assured Shorthold Tenancies. In the competitive market that now exists, such properties need to be in first class structural and decorative order and be equipped with all amenities such as full modern central heating, double glazing and other energy-saving facilities along with white goods, carpets and curtains to ensure the property attains its full rental income potential. Where such items and facilities are missing the Tribunal has noted that the rent is found to be correspondingly lower.

44. Neither party provided any written evidence of open market lettings, but Mr Horton referred to various properties in the locality but was unable to give any formal proof (see above).

45. The Tribunal therefore relied on its own knowledge and experience of general rent levels for this type of property in this area.

46. We concluded that an appropriate open market rent for a property set in a traditional residential setting, and let in first class condition as outlined above on a modern open market letting of an Assured Shorthold Tenancy where the tenant has no liability to carry out repairs or

decorations and the landlord supplies white goods, carpets and curtains would be £725.00 per month.

47. However, the Tribunal noted at its inspection and from the representations made the actual property is not in the condition considered usual for a modern letting at a market rent, or the normal setting, and it was necessary to adjust that hypothetical rent of £725.00 per month to allow for the differences between the condition and situation considered usual for such a letting and the condition of the actual property.
48. The Tribunal takes into account several items to arrive at the rent that it decides is the market rent.
49. In a tenancy of this nature the tenant is not liable for internal decorations, but should keep the flat in a tenant like manner.
50. **Tenants' Improvements** – Under Section 14(2)(f) of the Act, where improvements are made by the tenant the Tribunal must disregard these unless they are carried out under an obligation to the landlord.
51. There are no tenant's improvements in this case.
52. **White Goods** – The term “white goods” is a shorthand term which has come into use over a period of years. The housing market has changed in the past decade with private landlords and corporate bodies entering the market and buying property in great numbers. As a result there has been a substantial increase in numbers of new and refurbished property coming onto the letting market. The older conditioned housing stock has tended to be at a lower standard of finish, and fittings were fewer and of a poorer quality. New and refurbished properties tend to have at least a built-in hob, oven, and fridge, and sometimes have additional items such as a freezer and dishwasher. These items have come together to be known as “white goods”, and in this area have become the norm to be included when new tenancies were entered into, and consequently set the standard for Open Market Value.
53. In this instance the tenant has provided the fridge/freezer, washing machine and tumble dryer.
54. **Curtains** - New and refurbished properties tend to have fitted carpets or laminate flooring included. This means that the new properties were more desirable to new tenants and the older properties are required to raise their standards to compete on an even playing field. If properties do not have these facilities the rental value will naturally be lower and the property more difficult to let.
55. Where these do not exist the incoming tenant will need to buy any white goods, carpets and curtains that are not supplied by the landlord, hence there is a cost element for the tenants to consider. This will reflect in the rent they would be prepared to pay and the Tribunal reflects this in its

valuation, with deductions made based upon their own knowledge and experience.

56. In this instance the tenant has provided the curtains.
57. **Central Heating** – It is considered essential that all homes have central heating of some form and that the property should also go some way to meet the modern requirements for energy conservation. Failure to have these facilities will result in the property having difficulty maintaining an even temperature to comply with modern living standards. The normal form of central heating will usually be from a ‘wet radiator’ type of system with a central heating source such as a gas or oil fired boiler. Where this is not the case, the Tribunal has from its own knowledge and experience noted that rents achieved are less. Where these facilities are not provided the rent is considerably less than would otherwise be the case.
58. In this instance the form of heating to the property is not considered to be adequate for a property of this age and construction. Whilst modern electric heaters may be efficient the heaters in this instance are somewhat out of date. Additionally, the landlord has not provided any operating manual or instructions, thus preventing the system from being operated efficiently.
59. **Disrepair** - The landlord has a duty to keep the property in repair in accordance with Sections 11 to 16 of the Landlord & Tenant Act 1985. This is set out in Schedule 2 of the Tenancy Agreement along with other responsibilities.
60. Consequently, if a property is not kept in good condition it will soon start to deteriorate. As mentioned above, where the property is kept in good decorative repair and condition it is likely to achieve the full rental value when it is let. Correspondingly, if it not maintained it will soon begin to look unattractive and this will have an adverse effect on its rental value. The Tribunal will take these factors into account when assessing the rent.
61. In this case there is a broken gutter which is possibly a contributory factor to the dampness entering the rear bedroom around the window.
62. Whilst there is no laid down formula for arriving at deductions to be made towards these items, the Tribunal has used its own knowledge and experience and decided to make a deduction of 20% from the market rent for these factors.
63. Thus by deducting 20% from the open market rental value the Tribunal arrives at its Decision.



## **The Decision**

64. The Tribunal's decision is the rent at which the property might reasonably be expected to be let on the open market is £580.00 per month.
65. This rent will take effect from 30<sup>th</sup> November 2018 being the date specified by the landlord in the notice of increase.

R T Athow FRICS MIRPM  
Chairman

Dated 8<sup>th</sup> January 2019

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### Appeals

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber), which may be on a point of law only, 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.
4. 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.