



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

Case Reference : **CHI/00HB/MNR/2018/0062**

Property : **27a Cottle Road
Bristol,
BS14 8QR**

Applicant : **Ms Katarzyna Smoktunowicz**

Representative : **None**

Respondent : **Mr Mushtaq Ahmed**

Representative : **None**

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

Tribunal Members : **Mr I R Perry BSc FRICS
Mr S J Hodges FRICS**

Date of Inspection : **10th December 2018**

Date of Decision : **10th December 2018**

DECISION

Summary of Decision

1. On 10th December 2018 the Tribunal determined a market rent of £650 per month to take effect from 25th September 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 23rd August 2018 the Landlord served a notice under Section 13(2) of the Housing Act 1988 which proposed a new rent of £795 per month in place of the existing rent of £640 per month to take effect from 25th September 2018. The notice complied with the legal requirements.
4. On 14th September 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.
6. The Applicant requested a hearing which was scheduled for 2.00 pm on 10th December 2018, to be held at Bristol C&FJC, 2 Redcliffe Street, Bristol BS1 6GR.
7. Mr Ahmed had made written representations which had been copied to Ms Smoktunowicz.

Inspection

8. On 10th December 2018 the Tribunal inspected the property accompanied by the Tenant Ms Smoktunowicz and the Landlord Mr Ahmed.
9. The Tribunal found the property to be a 2 storey maisonette above a small local shopping parade, probably built in the 1960's, within a residential area on the southern side of Bristol.
10. The property is built of mainly brick elevations beneath a flat roof and is accessed by open concrete steps at the rear of the shops. The windows are all double glazed, heating is from fairly dated night store heaters supplemented by free standing oil filled electric heaters all provided by the Landlord.
11. The accommodation includes an entrance porch, hall, living room and kitchen all at the first floor level with two double bedrooms and a bathroom with wc on the second floor. Above the bath is an instant electric shower. There is some shared space at first floor level outside the immediate flat with no garage or designated parking.

12. Hot water is supplied from a small tank alongside an old hot water cylinder which is not in use. The parties agree that this is insufficient to fill a bath so the only way to bathe is by using the electric shower.
13. By modern standards the property is poorly insulated making it expensive to heat and there was much evidence of condensation and associated black mould around the windows. There is a loose glazing pane in the porch door and Ms Smoktunowicz said that she often found a pool of water just inside the porch.
14. Mr Ahmed had made written representations which had been copied to Ms Smoktunowicz.

The Hearing

15. A hearing had been requested by the Applicant and was scheduled for 2.00 pm on the day of inspection. Ms Smoktunowicz had also requested an interpreter who was ready at the Court before 2.00pm.
16. Mr Ahmed arrived approximately 5 minutes past 2.00 pm but Ms Smoktunowicz was not present. The Tribunal Chairman telephoned the number given by Ms Smoktunowicz but only obtained an answering message.
17. At 2.15 pm the Tribunal explained to Mr Ahmed that as Ms Smoktunowicz was not present and as he had not requested a hearing, the Tribunal would proceed to decide the case based on the inspection made earlier that day and with reference to the documents submitted by Mr Ahmed.
18. At about 2.25, Ms Smoktunowicz appeared in the waiting area and advised that she had been waiting outside the wrong room within the centre.
19. With the assistance of an interpreter the Tribunal explained that Mr Ahmed had now left and that the Tribunal had decided that a decision would be made on the basis of that morning's inspection, including the comments made by Ms Smokunowicz and the written representations already received from Mr Ahmed.

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

20. 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.
21. Having reviewed the evidence from Mr Ahmed and relying on its own judgement and knowledge of rental values in Bristol 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 £750 per month.
22. However the property is not in a condition that would normally be expected in order to achieve this level of rent and the Tribunal decided that a number of adjustments should be made to this market rent.
23. The Tribunal decided that the poor insulation and damp problems from condensation merited a reduction of £30 per month, the dated night store heaters supplemented by electric oil filled radiators merited a reduction of £30 per month and a further reduction of £40 per month should be made to reflect the inadequate hot water supply.
24. Accordingly the market rent of £750 per month would be reduced by a total of £100 per month to a figure of £650 per month.
25. The Tribunal was satisfied that the starting date for the new rent specified would cause the Tenant no undue hardship.

Determination

26. 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 £650 per month. This new rent of £650 per month should take effect from 25th September 2018, this being the date specified in the notice.

Chairman: I R Perry BSc FRICS

Date: 10th December 2018

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.
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