



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

**Case Reference** : **CHI/00HC/MNR/2019/0004**

**Property** : **5 Waits Close  
Banwell  
Somerset  
BS29 6HH**

**Applicant** : **Mrs C Holland**

**Representative** : **None**

**Respondent** : **Mr M Hemmens**

**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 M J Ayres FRICS**

**Date of Inspection** : **12<sup>th</sup> March 2019**

**Date of Decision** : **12<sup>th</sup> March 2109**

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**DECISION**

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## **Summary of Decision**

1. On 12<sup>th</sup> March 2019 the Tribunal determined a market rent of £865.00 per month to take effect from 18<sup>th</sup> February 2019.

## **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 17<sup>th</sup> January 2019 the Landlord served a notice under Section 13(2) of the Housing Act 1988 which proposed a new rent of £925.00 per month in place of the existing rent of £700.00 per month to take effect from 18<sup>th</sup> February 2019. The original Assured Shorthold Tenancy had been for 36 months from 18<sup>th</sup> January 2016. The notice complied with the legal requirements.
4. On 13<sup>th</sup> February 2019 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 Landlord submitted written representations, copies of which were sent to the Tenant.

## **Inspection**

6. On 12<sup>th</sup> March 2019 the Tribunal inspected the property accompanied by the Tenant Mrs Holland and a supporting friend. Unfortunately relations between the Landlord and Tenant are less than cordial. The Landlord had also attended the property but Mrs Holland did not want the Landlord to enter the property. The Tribunal explained that this was an irregularity that might prejudice the case but Mrs Holland was clearly in some distress over the matter and was adamant that she would not allow the Landlord access at this time.
7. The situation was explained to the Landlord who was content to remain outside of the property on the basis that the Tribunal would inform him of its findings in regard to the accommodation, its' condition and any other relevant comments made by Mrs Holland.
8. As agreed with Mr Hemmens the Tribunal proceeded with an inspection and reported its site notes to Mr Hemmens immediately afterwards and also noted his comments. There were some differences in the accounts between Landlord and Tenant.

9. The Tribunal found the property to be a semi-detached bungalow built of brick and block beneath a tiled roof. It is situated in a small cul-de-sac of similar properties in the village of Banwell, approximately 4 miles east of Weston-super-Mare. There is a school and shop within the village and an hourly bus service.
10. The entrance door opens directly into a Porch and a Hall with cloak cupboard. The Hall gives access to a Living Room, Kitchen with modern units and outside door, double Bedroom with two cupboards, single Bedroom and Shower Room with WC. The Kitchen gives access to another room which could be used as a Bedroom, Dining Room or Study.
11. Windows are UPVc double glazed and there is a recently installed gas-fired central heating system. Outside there are small gardens to front and rear and a garage. Decorations are in good order.
12. Mrs Holland told the Tribunal that the front door lock was broken, that she had supplied the washing machine, fridge/freezer, a garden shed and some edging to the borders in the rear garden.
13. Mrs Holland also complained that the rear room was very cold and was affected by mould growth although there was no visible evidence of this on the day of the inspection.
14. Mrs Holland also stated that she had redecorated the Living Room and had replaced the carpet in that room. Further she had replaced the shower cubicle in the Bathroom, which was broken, and had replaced the flooring in the Bathroom.
15. Mr Hemmens told the Tribunal that he understood the original carpet for the Living Room, supplied by him, was being stored by Mrs Holland so that it could be replaced by Mrs Holland if and when she ever left the property.
16. Mr Hemmens also told the Tribunal that the original shower cubicle had been removed by Mrs Holland in order to fit a bath but that he had not given his permission for this and Mrs Holland was required to reinstall a shower. He also said that Mrs Holland had deducted the cost of the bathroom flooring from her rental payments so that he had effectively paid for this.

## **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**

17. 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.
18. Having carefully considered the representations from the parties and associated correspondence and using its own judgement and knowledge of rental values in North Somerset 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 £875.00 per month.
19. This figure should be adjusted to reflect the ways in which the property differs from the condition and fittings normally provided by a landlord in an open market letting, for any substantial repair issues and to reflect any tenants improvements.
20. Using its experience the Tribunal decided that the Tenants provision of the shed and garden edging would have no material effect on the rental value. The Tribunal had insufficient evidence to decide whether the shower screen had been replaced due to damage or because the Landlord had insisted that he was not prepared to accept a bath provided by the Tenant. The carpet provided by the Tenant was a substitute to the carpet provided by the Landlord so the only adjustment to be made was a deduction of £10 per month to reflect the Tenant's provision of some white goods. Accordingly the monthly rent is to be £865 per month.
21. 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**

22. 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 £865 per month.
23. The Tribunal directed that the new rent of £865 per month should take effect from 18<sup>th</sup> February 2019 this being the date within the notice.

**Chairman: I R Perry BSc FRICS**

**Date: 12<sup>th</sup> March 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.
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