



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

Case Reference : **CHI/43UL/MNR/2019/0002**

Property : **2 Langhurst Manor Farm Cottages
Pook Hill
CHIDDINGFOLD
Surrey GU8 4XR**

Type of Application : **Determination of market rent:
Housing Act 1988**

Date of Decision : **20 March 2019**

Tribunal Members : **Mr B H R Simms FRICS (chairman)
Mr M J F Donaldson FRICS MCI Arb
MAE**

REASONS FOR THE DECISION

Background

1. On 28 December 2018 the Landlord served a notice under Section 13(2) of the Housing Act 1988 ('the Act') which proposed a new rent of £334.00 per week in place of the existing rent of £208.00 per week to take effect from 01 February 2019.
2. On 30 January 2019 the Tribunal received an application from the Tenant under Section 13(4) (a) of the Act.
3. The Tribunal issued Directions dated 31 January 2019 and 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 Statements requested were delivered. On 13 March 2019 Jessie Rogers, one of the Landlords, requested a variation of Directions to allow the submission of additional papers which were received by the Tribunal and circulated.

Inspection

4. On 20 March 2019 the Tribunal members inspected the property accompanied by the Tenant, the Landlord was represented by Mrs Burnett of Regency Lettings, the managing agent.
5. The property is a Semi-detached house in a rural location, adjoining quasi-industrial premises. The Accommodation comprises: Ground floor: 2 reception rooms, kitchen, rear porch, utility cupboard; First Floor: 2 bedrooms, bathroom with W.C.; Gardens to front and rear. In addition the Tenant has use of some parking spaces occupied under a separate arrangement and not part of the tenancy.
6. The property has modern double glazed windows and is in satisfactory order for its age. The Landlord has recently installed central heating, provided new carpets and redecorated internally.

The Tenancy

7. The Tribunal was provided with a photocopy of a Tenancy Agreement which appears to be a draft as it is dated on the cover but not inside and contains numerous manuscript alterations, blank entries and blank sections. A copy of the engrossed document was requested but not supplied. Neither party disputed the terms of the tenancy shown in the document provided.
8. It would appear that the tenancy was for a term of six months from [*a date not completed*], probably the date on the cover of 08 October 1996. The rent quoted was £5,475.00 (presumably per annum) amended to £5,460.00 payable by equal monthly payments on the first of each month. The tenant is holding over under the terms of this agreement.
9. The Agreement contains the usual Tenant obligations to occupy the property in a tenant-like manner and to pay the rent. Of particular relevance to the level of rent payable the Tenant also covenants to keep the interior of the property in good condition and complete repair including decorations and fixtures and fittings.
10. The Landlord has to keep the structure and exterior in repair and to keep the services installations in repair and working order including baths, sinks and sanitary apparatus. This obligation is now set out in S.11 Landlord & Tenant Act 1985 ('the '85 Act').

The parties' representations

11. Both parties made detailed representations in response to the Directions and these are briefly summarised here. The Tribunal has taken account of all the representations in making its determination.

12. In their initial application the Tenants outlined a list of works and improvements that they had carried out. The principal improvement was the installation of Spanish-style brick and beechwood kitchen in place of the deteriorating existing fitted kitchen.
13. In addition numerous items of general repair and upgrading have been carried out together with work to the garden areas. They outline a history of disrepair by the Landlord and their difficulty in getting the Landlord to do anything at the property.
14. The location appears rural but the farm yard adjoining has been changed from agricultural to commercial/industrial and they detail the disturbance caused.
15. The Tenants argue that the tenancy should be a Rent Act tenancy and exhibit the rent register for the adjoining property (no. 1) from 2012. They consider that the rent proposed for No. 2 is excessive.
16. In support of their rental opinion the Tenants provide copies of particulars of properties downloaded from various websites (downloaded date shown) being offered to let all of which they believe are superior to 2 Langhurst having three or four bedrooms and additional accommodation with white goods supplied.
17. These are: Queens Mead, Chiddingfold offered at £1,350 per calendar month ('pcm') (Feb 2018 and Jan 2019); Petworth Road, Wormley £1,300 pcm (Jan 2019); Hambledon £1,350 pcm; Ockfields, Milford £1,295 pcm (Jan 2019); Bungalow Rock Hill, Hambledon £1,250 pcm (Jan 2019); Church Road, Milford £1,295 pcm (Jan 2019); Rosemary Lane, Cranleigh £1,350 pcm (Jan 2019); Vann Lane, Hambledon £1,395 (Sept 2018) & £1,295 pcm (Jan 2019); Manor Fields, Milford £1,395 pcm (Jan 2019); Petworth Road, Chiddingfold £1,000 pcm (Aug 2017).
18. The Tenants believe that the rent should be between £1,000 and £1,050 pcm.
19. Mrs Burnett of the Landlord's agent outlined the history of the property and the rentals. She explained that major renovation works have been undertaken by the Landlord including: replastering, interior and exterior redecoration, installing central heating, providing new fencing and providing new carpets and floor coverings. She had to point out that wood-burning stoves had been installed by the Tenant without proper flue liners.
20. In support of the Landlord's rental Mrs Burnett quotes the previous tribunal decision 2016/0044 setting a market rent in June 2016 at £1,500 pcm prior to deductions. This brings her to the conclusion that £1,447.34 is the fair market rent taking into account the refurbishment. In further support she provides information on other rentals.

21. Firstly she quotes the rent quoted for the adjoining house at £1,500 in November 2013 and a 'Zoopla' estimate (date unclear) at a range £1,500 to £1,850 pcm. This property is now owner occupied. The Tenants dispute this rental quoting newspaper reports etc. but the Landlord subsequently supplied a printout showing a rent paid by J Bowers at £1,500 in December 2014.
22. Mrs Burnett supplies printouts of property details listed by her firm (undated) as follows: Hambledon Road, Hystile a 2 bedroom, 2 bathroom property listed at £1,500 pm let agreed; Petworth Road, Chiddingfold a barn conversion with 2 bedrooms, large sitting room, parking listed at £1,195 pcm let agreed; Feathercombe Lane, Hambledon a 3 bedroom house listed at £1,450 pcm let agreed; listed on RightMove a 3 bedroom house in Prestwick Lane, Godalming listed at £2,300 pcm and a 1 bedroom apartment in Prestwick Lane, Godalming listed at £899 pcm to rebut the tenants suggestion that the rent for Langhurst Cottage should be £1,000 pcm or so.
23. Mrs Burnett also supplies an inventory and Schedule of condition dated 03 December 2018 without further comment. The Tribunal's determination is based on its inspection.
24. Jessie Rogers, one of the joint Landlords, provided a further statement dated 12 February 2019 emphasising the benefit of the adjoining parking area and rebutting the disruption from the adjoining farm yard. She also rebuts the benefit achieved by the Tenants' earlier work and the disruption caused by the Landlord's recent work.
25. Having received statements from the Landlord and the managing agent the Tenants sent additional comments including a request for the new rent to be fixed at the date of the decision and not backdated as they will suffer hardship.
26. Much of the response relates to rebutting comments regarding disruption, delays, earlier tenancies, use of buildings for business etc. They also dispute some of the items of refurbishment. The Tribunal has based its decision on its inspection and the detailed statements submitted. The Tenants raise detailed criticisms of the property particulars offered by the managing agent as comparables. Most of these relate to the number of bedrooms and other accommodation which was an issue covered by the agent. We have taken these detailed points into account.
27. In conclusion the Tenants quote in particular their comparable of a semi-detached house in Vann Lane, Hambledon having three bedrooms being offered at £1,295 pcm.

The law

S14 of the Act 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.

(7) ...the rent determined ... shall be the rent under the tenancy with effect from the beginning of the new period specified in the notice or, if it appears to the appropriate tribunal that that would cause undue hardship to the tenant, with effect from such later date ... [that the Tribunal determines] not later than the date of the determination.

Consideration and Valuation

28. 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.
29. There has been reference throughout to the parking area. A copy of the Tomlin Order dated 06 April 2017 and the Schedule and Plan attached to it has been supplied to the Tribunal. This document confirms that the parking spaces are not part of the tenancy to be valued and accordingly they have not been taken into account. Any arrangement between a landlord and a tenant of these areas is not part of our deliberations.
30. The Tenant also raises the question of the alleged agricultural tenancy. As the Landlord says this has already been determined elsewhere and this Tribunal confirms that legal issues of this type are not within its jurisdiction.
31. Thus in the first instance 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 the terms and in the condition that is considered usual for such an open market letting. The Tribunal was assisted by the comparables submitted by the Tenant and the Landlord but we also relied on our own knowledge of general rent levels for this type of property in the area.
32. Much has been made of the rent paid for the adjoining house at £1,500 pcm and whether or not this is a true market rent or a contrived figure. The house is no longer let but is owner occupied. The rent paid in 2013/2014 is far too historic to influence today's values and has been ignored. Similarly the rent set out in the 2016 Ft-T decision was set at the date of the determination and cannot influence this Tribunal's decision.

33. Having regard to these matters we determined that the starting point for a semi-detached house in a semi-rural location be £1,300 per calendar month.
34. However, the rent referred to in the above paragraph is on the basis of a modern open market letting where the tenant has no liability to carry out internal repair or redecorations, and the landlord supplies white goods, carpets and curtains.
35. In this case the Tenant supplies their own white goods & curtains and the terms of this tenancy require the tenant to carry out internal decorations so a deduction must be made for these differences. Although the Tenant has been offered a replacement kitchen they are under no obligation to accept it. The kitchen provided by the Tenant is an improvement and the rent is adjusted accordingly. Having inspected the locality we are inclined to reflect the disturbance from the adjoining property in the rent we set. It is a rural locality but the adjoining property is quasi industrial. We dismiss Ms Rogers' comments as she is not in occupation and does not have personal knowledge of any disruption.
36. The Tribunal has therefore made the following deductions of **£185.00** from the starting point of £1,300.00 pcm. As the parties did not supply any evidence of allowances that they might make these are based on our estimate of the lower rental bid that might be made by a hypothetical tenant to allow for the differences when compared to a modern market letting.

a. Tenant repair and redecorating obligations	£30.00
b. Curtains	£25.00
c. White goods	£50.00
d. Original kitchen fittings	£30.00
e. Disruption from neighbouring premises	£50.00

Adjusted rent **£1,115.00**.per calendar month
The equivalent of **£257.30** per week

Determination

37. The Tribunal therefore decided that new rent of **£257.30** per week is 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.
38. The Tribunal then considered the starting date for the new rent and the Tenant's submission that they would like a later date as they will suffer hardship as provided for in S. 14 (17) of the Act. They refer to evidence that they might submit in support but would not wish the Landlord to have sight of it. The Directions set out (at para 7) the circumstances when the Tribunal may accept additional evidence. The 'overriding objective'¹ is to deal with cases fairly and justly.

¹ The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 SI 2013 No.1169 (L.8)

39. This includes making sure that any representations to it are considered by all parties and we must not favour one party or the other. To limit the sight of representations to the representing party and the Tribunal only is unfair.
40. Based on the evidence it has the Tribunal is unable to make any finding of hardship and determines that the new rent of **£257.30 per week** is to take effect on 01 February 2018 the date specified in the Landlord's notice.

Chairman: B H R Simms

Date: 20 March 2019

PERMISSION TO APPEAL

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) on a point of law 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.