



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

Case Reference : **CHI/00ML/MNR/2019/0025**

Property : **Flat 3, 74 Sackville Road, Hove BN3 3HB**

Tenant : **Miss H. Pearce**

Landlord : **Lincoln Holland Holdings Ltd.**

Represented by : **HoveLets**

Type of Application : **Rent determination in accordance with
Section 14 Housing Act 1988 (as amended)**

Tribunal Members : **Mr. R. A. Wilkey FRICS (Surveyor/Chairman)
Mr. N. I. Robinson FRICS (Valuer Member)**

Date of Inspection : **Monday 20th May 2019
No Hearing - paper determination**

Date of Decision : **Monday 20th May 2019**

DECISION AND REASONS

Background

1. On 27th February 2019 the Landlord served a notice under Section 13(2) of the Housing Act 1988 (as amended) which proposed a new rent of £1,090 per month in place of the existing rent of £995 per month to take effect from 6th April 2019.
2. The Tribunal received an application dated 22nd March 2019 from the Tenant under Section 13(4) (a) of the Housing Act 1988. The Application states that the tenancy began on 6th April 2018 and that no services or furniture are provided by the landlord.
3. Directions for the conduct of the matter were issued by the Tribunal Office on 29th March 2019 and, amongst other things, the parties were advised that the determination will be made on the written representations unless a request for an oral hearing is made within fourteen days
4. Neither party made a request for an oral hearing and the matter was determined on the basis of a paper determination.

Inspection

5. The Tribunal Members inspected the property on Monday 20th May 2019 in the company of the tenant, Miss Pearce. The landlord had been informed of the inspection but was not present or represented.
6. The property is a self-contained flat on the top floor of an end of terrace house, probably built about 1890 and subsequently converted into flats. There are no gardens or off-road parking facilities and parking on nearby roads is regulated and restricted. The property has frontage to a busy local traffic route but is within easy reach of bus services, shopping facilities and Hove main line railway station.
7. The main roof is not visible from ground level. The main walls are probably of solid construction with rendered and painted elevations. Windows are replacement double glazed, casement type. The outside of the building is generally in need of maintenance and repair including numerous cracks to upper front rendering

8. The split-level accommodation comprises landing, living room/kitchen area, bedroom, bathroom/WC on the upper level. Stairs lead down from the landing to a further bedroom with a small en-suite shower and WC.
9. Central heating is provided by a gas fired boiler in the bathroom which feeds radiators in the main rooms.
10. The landlord has supplied floor coverings, curtains and white goods.
11. The Tribunal has been supplied with a copy of the Tenancy Agreement which is for a term of 6 months from April 6th 2018. The Tribunal noted the following provisions:
 - (i) The tenant is required to preserve the interior and the contents of the property in good order and in clean condition as at the commencement of the tenancy, fair wear and tear due to reasonable and normal use and damage by accidental fire and other insured risks excepted....
 - (i) The landlord must:
 - (a) carry out those repairs to the property the liability for which is imposed upon the landlord by Section 11 the Landlord and Tenant Act 1985 as amended by Section 116 of the Housing Act 1988. This liability obliges the landlord to repair the structure of the premises and exterior (including drains, gutters and pipes) and certain installations for the supply of water electricity and sanitation (including basins sinks baths and sanitary conveniences and for space heating or water but not other fixtures fittings and appliances for making use of the supply of water and electricity.)
 - (b) Put and keep in repair and proper working order the central heating installation electrical appliances and other equipment provided by the landlord for the use of the tenant...

Evidence and representations

Tenant

12. It is pertinent to extract the following verbatim handwritten comments from Question 8 (Repairs) on the application form:
- (a) Landlord is so far refusing to fix.
 - (b) Carpet is cigarette burnt (previous tenants).
 - (c) Damp in child's bedroom and landing, kitchen units not secure in places and boiler is very old. Plumber advised landlord to replace but he has not.

The Tribunal notes that the tenant has written the words "Tribunal visit to flat and oral hearing please". However, there has been no application for an oral hearing following the Directions issued on 29 March 2019.

13. In addition, the bundle includes a copy of a letter dated April 3rd 2019 from the tenant to the HoveLets. Amongst other things, it states that if the carpets, kitchen, boiler and damp issues were addressed, the amount of £1,050 per month would be market rent
14. In support of this viewpoint, the tenant provides the following examples of asking rents for "properties with new, undamaged carpets, quality fittings and amenities, of similar size and in more desirable locations":

Eaton Road, Hove

"Flat across two levels with two double bedrooms and large open plan living room. More storage, nicer finish on kitchen, no damage to carpets and closer to Hove train station and the sea." It is not stated whether or not central heating is installed. The asking rent is £950 per month.

St. Aubyns, Hove

“Two bedroom flat with a double and single bedroom, beautifully presented with lovely paintwork, carpets and finish on the kitchen and right on the seafront.” It is not stated whether or not central heating is installed. The asking rent is £950 per month.

Clarendon Villas, Hove

“Two double bedrooms with spacious living room, separate kitchen, no damage to carpets, closer to Hove station.” It is not stated whether or not central heating is installed. The asking rent is £995 per month.

Hova Villas, Hove

“Two double bedrooms, newly decorated, brand new carpets, spacious living room, separate modern kitchen, beautifully modern bathroom, communal garden, fitted wardrobes in master bedroom, closer to Hove station and sea front.” It is not stated whether or not central heating is installed. The asking rent is £1,100 per month.

15. Further comments are made by the tenant as follows:
- (a) ... the landlord has not carried out all the repairs that he is responsible for
 - (b) I have had to contact the local Council about the ongoing damp and mould issue.
 - (c) The carpet is very aged in all rooms except for my bedroom. There are four cigarette burns on the carpet in the lounge, as well as large black stains elsewhere – while this is arguably cosmetic.
 - (d) The floor in the kitchen is coming away at the sides, the cupboards regularly fall off the hinges... Panels by the door are loose.
 - (e) The boiler is ancient. A plumber who came round when there was an issue with it where I had no heating or hot water said he would

advise HoveLets it be replaced[sic] but nothing has been done.

- (f) The paintwork is shoddy throughout, e.g. on walls, banister, doors. The hooks on my door are mismatched.

Landlord

16. The landlord's agent, HoveLets, wrote a letter dated 4th April 2019 in support of the proposed rent increase. It included copies of numerous documents, including:
 - (i) The inventory of the tenancy.
 - (ii) Comparable[sic] of local properties, all with higher rental amounts
 - (iii) Invoices pertaining to recent exterior and interior works carried out which the tenant has had complaints about
 - (iv) Various email trails between the Managing Agents and the Tenant.

The email trails have been enclosed to highlight that the landlord's agent has been transparent at all times and has been liaising with the landlord to satisfy the tenant's various demands over the last year in the tenancy.

Particulars of three comparable properties are provided but it is not stated whether or not the asking rent was achieved.

Clarendon Villas, Hove

This is a 2 bedroom converted flat with en suite bathroom to the main bedroom. It is not stated whether or not central heating is installed. The asking rent is £1,200 pcm.

The Drive, Hove

This is a purpose built 2 bedroom flat on the top floor of fairly modern

block. It is not stated whether or not central heating is installed. The asking rent is £1,090 pcm.

St. Aubyns Gardens, Hove

This is a converted flat but no further information is provided. The asking rent is £1,150 pcm

The above is a summary of the main points made by the parties and the tribunal has read and considered the whole of the supplied documents.

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 regard to the 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 the terms and in the condition that is considered usual for such an open market letting. The Tribunal considered the comparable provided by the parties and also relied on its own knowledge and experience of lettings of similar properties and determined that the appropriate should be £1,090 per month.

19. The tribunal had careful regard to all the written submissions and they are reflected in the above rent. No evidence has been supplied to confirm that the boiler needs replacement. A current safety certificate has been issued and the tenant advised that the proposals by the plumber were recommendations rather than conditions for the issue of a certificate. This is an old building and the flat is located on the top floor. It is apparent that there have been ongoing problems with dampness but work has been carried out by the landlord and, at the time of the inspection by the tribunal, no significant dampness was noted. There are cigarette burns in the living room carpet but these are noted on the inventory which was prepared when the tenancy began. At some time in recent years, the flat has been modernised to a reasonable standard. Although the accommodation is on two levels, it has the advantage of a shower/WC off the main bedroom in addition to the bathroom on the top landing.

Determination

20. 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 is £1,090 per month.

21. Section 14(7) of the Act provides that the starting date for any rent determined by the tribunal is either the date agreed by the parties, the date specified in the notice or, if it appears to the Tribunal that there would be undue hardship, any date directed by the tribunal, but no later than the date that the rent is determined. The tenant made no representations in respect of hardship. Accordingly, the Tribunal directs that the new rent of £1,090 per

month will take effect on 6th April 2019 being the date specified in the Landlord's notice.

Chairman: R. A. Wilkey

Dated: **Monday 20th May 2019**

Appeals

22. 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.
23. 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.
24. 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 the time limit, or not to allow the application for permission to appeal to proceed.
25. 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. Any appeal in respect of the Housing Act 1988 should be on a point of law.
26. If the First-tier Tribunal refuses permission to appeal, in accordance with section 11 of the Tribunals, Courts and Enforcement Act 2007, and Rule 21 of the Tribunal Procedure (Upper Tribunal) (Lands Chamber) Rules 2010, the Applicant/Respondent may make a further application for permission to appeal to the Upper Tribunal (Lands Chamber). Such application must be made in writing and received by the Upper Tribunal (lands Chamber) no later than 14 days after the date on which the First-tier Tribunal sent notice of this refusal to the party applying for permission.