



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

Case Reference : **CHI/21UG/MNR/2019/0035**

Property : **Southbank, Military Road, Rye, East
Sussex TN31 7NX**

Applicant : **Ms V Parish - Tenant**

Representative : **None**

Respondent : **Syncardia Ltd - Landlord**

Representative : **Phillips & Stubbs - 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 : **25th June 2019**

Date of Decision : **25th June 2019**

DECISION

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. The application was dated 15th April 2019.
2. The landlord proposed a rent of £1,200.00 per month with effect from 1st June 2019, being the first anniversary of the tenancy.
3. The tenancy commenced on 1st May 2018 at a rent of £1,000.00 per month.
4. The Tribunal were provided with a copy of the tenancy agreement with the application.

Inspection

5. The Tribunal inspected the property on 25th June 2019 in the presence of the tenant and it appeared to be in good condition for its age and character. No representative from the Landlord attended the inspection.
6. It is a modern semi-detached house, situated on the outskirts of Rye close to open countryside and the Royal Military Canal. The town centre is about 1/4 mile away.
7. The accommodation is on two floors and comprises hall, cloakroom, living room, kitchen/breakfast room on the ground floor, and two double bedrooms and a box-room together with a bathroom/WC on the first floor. There are uPVC double glazed windows and gas fired central heating. There are very small gardens front and rear and a car port.
8. All main services are connected.
9. There are no tenant's improvements.

Statements & Evidence

10. The Tribunal issued Standard Directions on 20th May 2019. These gave 14 days for the landlord to make a formal statement setting out the landlord's case and include comparable evidence. Within 28 days of the Directions the tenant was required to state what she felt the rent should be, and include comparable evidence, and list any improvements made to the property.
11. The Tribunal received written representations from the landlord's agent dated 25th May 2019 and these were copied to the tenant.
12. No written representations were received from the tenant. However, there was a covering letter with the application which pointed out the property was adjacent to the public house (The Globe Inn) and there is regular noise disturbance, as well as vehicles blocking the entrance to the car port. Some time ago she had reported the light fitting to the bathroom was not working but this has still not been repaired. Nail heads are showing through the

plaster to the ceilings and walls of some rooms. The rear garden is unusable due to a spring which rises in the bank immediately beyond the rear boundary and makes the garden permanently damp.

The Law

13. 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.
14. 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:
15. *“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,.....”*
16. On 1st 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

17. 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.

18. 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.
19. Phillips & Stubbs provided evidence of rental values, primarily on Northbank, the adjoining house, where they gave copies of the last three tenancy agreements. Northbank appears to be a mirror image of Southbank. It had been let from 1st April 2017 on a one year AST at £1,100 per month. Another agreement showed it had been let from 28th March 2018 on a one year AST at £1,100 per month. The third agreement showed it had been let from 17th November 2018 at £1,100 per month. Additional evidence was given on 35 Military Road Rye, which is almost opposite the subject property. It had been let from 27th October 2018 on a one year AST at £1,100 per month.
20. The Tribunal accepted the rental value of similar properties in this area is £1,100 per month, but this property has the distinct disadvantage over the evidence given by Phillips & Stubbs. It is adjacent to The Globe Inn and there is excess noise and parking problems as a result. Additionally, there is a cold store in the rear garden of the pub which is on the boundary of the subject property. There is constant noise from its cooling plant which is a further noise nuisance to any occupier of Southbank. This has an adverse effect on the rental value of the property.
21. Taking the foregoing into account the Tribunal concluded the appropriate open market rent for the property is £1,050.00 per month.
22. The Tribunal did not feel the items of disrepair were substantial and did not affect the rental value as they should be quickly and easily remedied.

The Decision

23. The Tribunal's decision is the rent at which the property might reasonably be expected to be let on the open market is £1,050.00 per month.
24. This rent will take effect from 1st June 2019 being the date specified by the landlord in the notice of increase.

R T Athow FRICS MIRPM
Chairman

Dated 25th June 2019

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.