



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

Case Reference : **CHI/18UH/MNR/2019/0043**

Property : **24A The Strand, Dawlish, Devon EX7
9PS**

Applicant : **Mr A P Davies (tenant)**

Respondent : **Mr A and A Costas (landlords)**

Landlord's Agent : **Devon Rose**

Date of Application : **received 10th June 2019**

Type of Application : **Sections 13 and 14 of the Housing Act
1988**

Tribunal : **Mr R T Brown FRICS
Mr M Woodrow MRICS**

Date : **Considered on 12th August 2019**

REASONS FOR DECISION

Background

1. The Tribunal gave formal notice of its decision by a Notice dated 12th August 2019 in the sum of **£500.00 per calendar month**.
2. An application was received by the Tribunal on 10th June 2019 from the tenant of the above property regarding a referral in respect of a notice of increase of rent served by the landlord under section 13 of the Housing Act 1988.
3. The landlord's notice, which proposed a rent of **£500.00 per calendar month** with effect from 30th June 2019, in place of the current rent of £485.00 per calendar month is dated the 9th May 2019.
4. A written assured shorthold tenancy agreement dated 25th March 2014 was provided to the Tribunal. That agreement is in the common form with the Landlord responsible for maintaining the property and the tenant responsible for keeping and maintaining the internal decorations and gardens.

Inspection

5. The Tribunal attended the premises on the 12th August at the appointed time of 10.30 am and after ringing the bell and knocking on the communal door and receiving no response the members left. The members returned at 10.45 and again tried ring the bell and knocked but there was still no reply so the members left. The Landlord was neither present nor represented.
6. The property occupies at town centre location within an established shopping area, fronting a one way street, in the seaside town of Dawlish and overlooks The Lawns, a grassed area of public open space.
7. The property comprises a first floor flat over a shop accessed via a common passage between two shops which is used for the storage paladin bins and other waste receptacles.
8. The accommodation: The Tribunal was unable to ascertain the extent of the accommodation because apart from being unable to gain access the Tenant had not completed the relevant section of the application form.
9. The Tribunal was therefore unable to ascertain the extent of the accommodation, the services provided nor the general condition of the flat or any fittings/furnishings provided.

Hearing

10. A hearing was not requested.

Landlord's Representations

11. In accordance with Directions issued on the 4th July 2019 the Landlord's agent had provided a letter dated 15th July 2019. This letter, under a paragraph headed: Details of lettings of similar properties (all unfurnished and all repairs/decoration responsibility of landlord), gives a list of 5 lettings which had taken place between July 2014 and October

2018. The rents achieved ranged from £495.00 to £550.00 per calendar month.

Tenant's Representations

12. Other than the application the Tenant made no written representations.

The Tribunal's Deliberations

13. The Tribunal may proceed to determine the rent at which it considers the subject property might reasonably be expected to let on the open market by a willing landlord under an assured tenancy provided the notice under Section 13 is properly served in the prescribed form.
14. The Tribunal found as a matter of fact that the notice was a Notice under section 13 in the style prescribed by Statute.
15. 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.
16. The Tribunal finds itself in some difficulty as the Applicant Tenant has not explained to the Tribunal why he considers the rent proposed is too high. The agent for the Landlord has provided a list of lettings without any details analysing the differences/similarities to the subject property nor adjustment of the rents apparently achieved to allow for the differing dates of those lettings.
17. In determining whether or not to proceed with the application the Tribunal considered its duty under Rule 3 of The Tribunal Procedure (First-tier) (Property Chamber) Rules 2013 (SI2013 No1169).

Overriding objective and parties' obligation to co-operate with the Tribunal

3.(1) The overriding objective of these Rules is to enable the Tribunal to deal with cases fairly and justly.

(2) Dealing with a case fairly and justly includes—

- (a) dealing with the case in ways which are proportionate to the importance of the case, the complexity of the issues, the anticipated costs and the resources of the parties and of the Tribunal;
- (b) avoiding unnecessary formality and seeking flexibility in the proceedings;
- (c) ensuring, so far as practicable, that the parties are able to participate fully in the proceedings;
- (d) using any special expertise of the Tribunal effectively; and
- (e) avoiding delay, so far as compatible with proper consideration of the issues.

(3) The Tribunal must seek to give effect to the overriding objective when it—

- (a) exercises any power under these Rules; or
- (b) interprets any rule or practice direction.

- (4) Parties must—
(a) help the Tribunal to further the overriding objective; and
(b) co-operate with the Tribunal generally.

18. In reaching its decision to proceed the Tribunal considered:
- a) The failure of the Applicant to comply with Direction No 2 of the Directions dated 4th July 2019 which specifically asked that the Tenant explain what he/or she considers the rent should be and why.
 - b) The fact the Respondent Landlord had through its agent responded to the Application.
19. The Tribunal concluded, after considering its duty under Rule 3 (above), that it was appropriate to determine the application on the information provided by the parties.
20. The Tribunal is, however, an expert tribunal and not having been presented with any reliable comparable rental evidence is entitled to rely on its knowledge and experience of the relevant property market. With the benefit of that knowledge and their external inspection of the exterior and access passage to the property found that the market rent for the subject is **£500.00 per calendar month**
21. The rent will take effect from **30th June 2019** being the date specified by the landlord's agent in the notice of increase.

Relevant Law

22. Sections 13 and 14 of the Housing Act 1988.
23. Assured Tenancies and Agricultural Occupancies (Forms) (England) Regulations 2015 (SI 2015 No.620)

Robert T Brown Chairman

Appeal Provisions

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 which application must:-
- a. be received by the said office within 28 days after the Tribunal sends to the person making the application written reasons for the decision.

- b. 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
2. If the application is not received within the 28-day time limit, it must include a request for an extension of time and the reason for it 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.