



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

**Case Reference** : **CHI/21UD/MNR/2019/0046**

**Property** : **First Floor Flat  
25 Albany Road  
St Leonards on Sea  
TN38 0LP**

**Type of Application** : **Determination of open market rent:  
S.14 Housing Act 1988**

**Tenant** : **Mrs Heather Bishop**

**Represented by** : **Mr J Holden, Holden & Co, Solicitors**

**Landlord** : **Un-named  
but believed to be K L Investments Ltd**

**Represented by** : **Unrepresented**

**Date of Decision** : **23 August 2019**

**Tribunal Members** : **Mr B H R Simms FRICS (Chairman)  
Mr N I Robinson FRICS**

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**REASONS FOR THE DECISION**

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## **Background**

1. By an application dated 10 June 2019 Mr Holden acting for Mrs Bishop, the Tenant, referred to the Tribunal a Notice of Increase of rent served by the Landlord's then solicitors Butters David Grey LLP under section 13 of the Housing Act 1988 dated 09 May 2019 which proposed a rent of £850.00 per calendar month with effect from 01 July 2019 in place of the passing rent of £410.00 per calendar month.
2. The Tenancy agreement is dated 01 July 1995 between Miss L Moran (no longer a tenant) and Mrs Pantry (now Mrs Bishop) for a term from 31 May 1995 to 31 July 1995 and thereafter until the tenancy is terminated. The tenant is responsible for repair and decoration of the interior including window glass; the clearing of drains and cleaning windows; and jointly with other tenant to clean and tidy the common ways. The Landlord is responsible for all other repairs and decorations subject to S.11 L & T Act 1985.
3. The Tribunal issued Directions dated 09 July 2019 informing the parties (para 2) 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. The Tenant's solicitor requested an oral hearing.

## **Inspection**

4. The Tribunal members inspected the property on 23 August 2019 as arranged accompanied by the Tenant Mrs Bishop and her husband (The Landlord was not represented), the weather was fine and sunny.
5. The property comprises a first floor flat formed by conversion in a four-storey semi-detached house located in an elevated position in a residential area.
6. The flat is approached by a side entrance and common way staircases leading to the first floor. The accommodation comprises: Entrance Hall; Living Room; Kitchen with sink worktops and cupboards; Two Bedrooms; Bathroom with panelled bath, washbasin and high level W.C. There is a garden at the front (shared) but the rear garden is now landscaped by the ground floor tenant and inaccessible.
7. The property is not in good repair and in the rear bedroom bay window wall there is evidence of damp penetration beneath the window and water ingress has caused part of the ceiling to collapse. The double-hung sash windows are in poor repair and only some of them will open. All floor coverings and white goods have been provided by the tenant. There is no central heating only dated electric night storage units

## **Hearing and Representations**

8. The Hearing took place as advised at Bexhill Town Hall after the inspection. At the appointed time, 14:00 hours, only the Tenant and her solicitor were waiting.

9. The Chairman telephoned the solicitors identified as representing the Landlord (Butters David Grey) and spoke to Mr Grey. He advised Mr Simms that he would not be attending the hearing and in fact his firm was no longer instructed. He was advised that the hearing would proceed without any representation and this information was received without objection.
10. Prior to the hearing Messrs Butters David Grey had responded to Directions by letter dated 11 July enclosing a copy of a valuation report prepared for them by Mr W J Ramsden of Meredian Surveyors dated 13 March 2019. This report contains a confidentiality clause restricting its use to the addressee (the solicitors) and not accepting any responsibility to any third parties. Accordingly, as no written waiver has been provided; as neither the solicitor nor the surveyor was available for examination, and having consulted Mr Holden, the valuation report was not admitted as evidence. The Landlord submitted no representations or evidence.
11. Mr Holden addressed the Tribunal and introduced the Tenant's witness statement dated 26 July 2019 including details of rentals for comparable properties. Mr Holden and Mrs Bishop were questioned by the Tribunal.
12. In summary the Tenant's case is:
  - When the tenancy commenced the flat was in poor condition.
  - The flat originally had the shared use of the rear garden but this right has been overridden as the garden is understood to be now demised to the tenant of the ground floor flat.
  - The Landlord's disrepair has allowed the bedroom bay ceiling to partially collapse and damp to penetrate. Only a few of the windows will open.
  - There is no proper central heating as the storage heaters are old and inefficient.
  - Formal notice of disrepair was served on the Landlord in November 2018
  - The Tenant has undertaken substantial improvements to the kitchen and bathroom at her own expense.
  - Having regard to the rents for other comparable properties a rent for this flat in good order would be £675.00 per month, later amended to in the order of £725 - £750 per month, allowing for the inclusion of floor coverings and white goods.

### **The Law and Valuation**

13. 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 Landlord or the Tenant cannot be relevant to this issue and have not been taken into account.
14. Although the Landlord's original solicitor submitted documents intended to support its case, for the reasons set out at para. 10 above, they were not admitted.
15. Thus in the first instance the Tribunal determined what rent the Landlord could reasonably be expected to obtain for the property with central heating 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.

16. The Tenant's evidence was of assistance to the Tribunal and also using its own knowledge and experience the Tribunal concluded that an appropriate open market rental value for the flat would be £725.00 per calendar month. This rental reflects the usual situation in this locality where floor coverings and white goods are supplied by the landlord as would be the case with the majority of comparable properties.
17. This rent needs to be adjusted to take account of the Landlord's disrepair. In the Tribunal's view £25.00 per calendar month needs to be deducted to allow for this. In addition there is no proper central heating at the subject property and it has been improved by the Tenant's work to the kitchen and bathroom which must be ignored for rental purposes. We also need to adjust for the lack of floor coverings and white goods. The Tenant's repair and maintenance obligations are more onerous than in a usual Assured letting. We allocate £100.00 per calendar month for these deficiencies. (These allowances represents our opinion of the lower bid that would be made by a hypothetical tenant considering renting the flat in its current condition compared to one in good order with satisfactory amenities).
18. We considered the question of the rear garden no longer being part of the tenancy but we couldn't find any evidence to show that a further adjustment in rent was needed.
19. This leaves a net market rent of £600.00 per calendar month (£725 less £125).

### **Determination**

20. The Tribunal therefore decided that the rent at which the subject flat might reasonably be expected to be let in the open market by a willing Landlord under the terms of this assured tenancy was £600.00 per calendar month.
21. The Tribunal directed the new rent of **£600.00 per calendar month** to take effect from **01 July 2019** being the date specified in the Landlord's notice as stated on the decision form.

**Brandon H R Simms (Chairman)**

**23 August 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.