



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

Case Reference : **CHI/00ML/MNR/2019/0045**

Property : **Room 5
27-28 Belvedere Terrace
Brighton
BN1 3AF**

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

Tenant : **Mr John Masterson**

Landlord : **Chestnut Development Company Ltd.**

Date of Decision : **23 August 2019**

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

REASONS FOR THE DECISION

Background

1. By an application dated 26 June 2019 Mr John Masterson, the Tenant, referred to the Tribunal a Notice of Increase of rent served by the Landlord under section 13 of the Housing Act 1988 dated 22 June 2019 which proposed a rent of £160.00 per week including services and water charges of £36.41 per week and Council Tax of £12.24 per week with effect from 22 July 2019 in place of the passing rent of £100.00 per week.
2. The Tenancy is an Assured Periodic Tenancy formed by holding over a weekly tenancy that commenced in May 1990 in different premises. There is no tenancy agreement.
3. The Tribunal issued Directions dated 2 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. No request was made, so the Tribunal proceeded to determine the case based on its inspection and any documents received.

Inspection

4. The Tribunal members inspected the property on 23 August 2019 as arranged accompanied by the Tenant (The Landlord was not represented), the weather was fine and sunny.
5. The property comprises two conjoined ground floor rooms with shared facilities approached from a communal hall and stairs. The accommodation comprises: Kitchen/living area with sink worktop and cooker and an adjoining Bed-sitting Room. There are shared facilities approached via the communal hall: Two Showers, Separate W.C. with washbasin. No outside space. The building was probably built as an hotel as each room has a door to the hallway. The shared facilities and common ways would appear to have been recently refurbished.
6. The Landlord may have supplied some carpets and some furniture originally but this is now in worn condition and adds nothing to the rental value. Fittings are satisfactory.

Representations

7. The Landlord requested a variation of Directions consisting of a written submission and documents in support of the service charges and the Tribunal took this to be its statement of case.
8. The Tenant points out that the passing rent is misquoted as £105.00 per week whereas it was fixed at £100 plus £2.50 for Council Tax. Mr Masterson pays for his own electricity direct and has a separate meter.

The Law and Valuation

9. 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.

10. Although the Landlord submitted documents intended to support the service charge and Council Tax amounts these are under the control of the Landlord and the Tribunal has no jurisdiction. The amounts stated are fixed as part of the rent and are not variable during the rental period.
11. 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.
12. Neither party provided any evidence of rental values so using its own knowledge and experience the Tribunal concluded that an appropriate open market rental value for the room with shared facilities would be £135.00 per week on an all-inclusive basis.
13. This rent needs to be adjusted to take account of the fact that the tenant has to pay for his own electricity. In the Tribunal's view £5.00 per week needs to be deducted to allow for this. (This allowance represents our opinion of the lower bid that would be made by a hypothetical tenant considering renting this room compared to one where the rent includes electricity).
14. This leaves a net market rent of £130.00 per week including the fixed charge for services and water charges of £36.41 per week and Council Tax of £12.24 per week. This new rent is to include the amounts for service charges, water charges and Council Tax and is a fixed sum.
15. The Tribunal previously fixed the rent in May 2017 at £100.00 per week including a fixed charge of £13.00 for services with the Tenant paying an additional amount for Council Tax and directly for electricity, and not the £105.00 quoted.
16. Although the Tenant is on a fixed income we have not taken into account any personal circumstances.

Determination

17. The Tribunal therefore decided that the rent at which the subject room might reasonably be expected to be let in the open market by a willing Landlord under the terms of this assured tenancy was £130.00 per week including fixed services water charges and Council Tax.
18. The Tribunal directed the new rent of **£130.00 per week** including the fixed water and service charge of £36.41 and Council Tax of £12.24 to take effect from **22 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.