



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

Case Reference : **CHI/00LC/MNR/2019/0073**

Property : **447B Canterbury Street, Gillingham
Kent ME7 5LJ**

Applicant : **Ms V Hill - Tenant**

Representative : **None**

Respondent : **Mr M Becker - Landlord**

Representative : **MRBM Group**

Type of Application : **Housing Act 1988 – Section 13
Appeal of Notice of Rent increase**

Tribunal Members : **R T Ahow FRICS MIRPM – Chairman
P A Gammon MBE BA (Lay Member)**

Date of Inspection : **5th February 2020**

Date of Decision : **5th February 2020**

DECISION

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Background

1. On 26th December 2019 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.
2. The landlord's notice, which proposed a rent of £623.00 per month with effect from 1st January 2020, is dated 13th November 2019.
3. The tenancy commenced on 19th October 2018 until 30th November 2019 at a rent of £573.00 per month and is a statutory periodic tenancy.
4. The Tribunal were provided with a copy of the tenancy agreement with the application.

Inspection

5. The Tribunal inspected the property on 5th February 2020 in the presence of the tenant and Mr Jennings, the landlord's maintenance man and it appeared to be in poor condition for its age and character. Grass was seen growing out of some of the gutters at the front of the property. Paint was peeling and generally the property was in poor decorative condition both externally and internally. The render to some parts of the fire walls at roof level had broken. The communal hallway was dirty and there was an old fitted carpet here. Within the flat there were several old damp stains at ceiling level. There were also several cracks, in particular to junction of the walls & ceiling in the kitchen.
6. It is a Self-contained first floor flat in what appears to be a converted terraced house in a convenient position close to local facilities and the town.
7. The accommodation comprises landing, living room, kitchen, 1 bedroom and a bathroom/WC. There is gas fired central heating. The front windows are uPVC double glazed units whilst the remainder are single glazed wood casement windows. All main services are connected.
8. There were no tenant's improvements.
9. The tenant has provided a washing machine and fridge in the kitchen.

Statements & Evidence

10. The Tribunal issued Standard Directions on 6th January. These gave 10 days for the Landlord to make a formal statement setting out the landlord's case and include comparable evidence. Within 20 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 she has made to the property.
11. The Tribunal received written representations from both parties.

12. Neither party requested a hearing and so the Tribunal has restricted itself to the written submissions when considering the rental value.

The Landlord's Case

13. The Landlord gave evidence of four properties which were considered similar to the subject property. Rents ranged from £650 to £700 pcm.

The Tenant's Case

14. The tenant gave four comparables. She also stated the average rent in the ME7 postcode is £563 according to the Zoopla website.
15. She felt that some of the landlord's comparables were not at all similar to her flat and should be discounted.
16. In her submissions Ms Hill listed several items of disrepair which the landlord had attended to, sometimes unsuccessfully or to a poor standard.
17. Although the rear part of the back garden was supposed to be included in her tenancy there was no access to it.

The Law

18. 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.
19. 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:
20. *“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,.....”

21. 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

22. In the first instance and 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.

23. 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.

24. The tribunal took note of the comparables submitted by the parties and their comments made. From this it concluded that an appropriate open market rent for the property let in first class condition as outlined above on a modern open market letting of an Assured Shorthold Tenancy where the tenant has no liability to carry out repairs or decorations and the landlord supplies white goods, carpets and curtains would be £600.00 per month.

25. However, the Tribunal noted at its inspection (and from the representations made) the actual property is not in the condition considered usual for a modern letting at a market rent, and it was necessary to adjust that hypothetical rent of £600 per month to allow for the differences between the condition considered usual for such a letting and the condition of the actual property.

26. The Tribunal takes into account several items to arrive at the rent that it decides is the market rent.

27. In a tenancy of this nature the tenant is not liable for internal decorations, but should keep the flat in a tenant like manner.

28. **Central Heating/Double Glazing/Insulation** – It is considered essential that all homes have central heating of some form and that the property should also go some way to meet the modern requirements for energy conservation. Failure to have these facilities will result in the property being difficult to maintain an even temperature to comply with modern living standards. The normal form of central heating will usually be from a ‘wet radiator’ type of system with a central heating source such as a gas or oil fired boiler. Where this is not the case the Tribunal has, from its own knowledge and experience, noted that rents achieved are less. Where these facilities are not provided the rent is considerably less than would otherwise be the case.
29. In this instance the only windows that are of a good insulating standard are those to the living room. The remainder are old, single glazed units. Consequently, there is a substantial heat loss here.
30. **Disrepair** - The landlord has a duty to keep the property in repair in accordance with Sections 11 to 16 of the Landlord & Tenant Act 1985. This is set out in Schedule 2 of the Tenancy Agreement along with other responsibilities.
31. Consequently, if a property is not kept in good condition it will soon start to deteriorate. As mentioned above, where the property is kept in good decorative repair and condition it is likely to achieve the full rental value when it is let. Correspondingly, if it not maintained it will soon begin to look unattractive and this will have an adverse effect on its rental value. The Tribunal will take these factors into account when assessing the rent.
32. In this case the exterior appears to have been neglected and is in need of external repairs and redecoration. Failure to regularly maintain the building has resulted in water leaking into the property and reducing the living standards to the tenant.
33. Whilst there is no laid down formula for arriving at deductions to be made towards these items, the Tribunal has used its own knowledge and experience and decided to make a deduction of 10% from the market rent for these factors, and by deducting this from the open market rental value the Tribunal arrives at its Decision.

The Decision

34. The Tribunal’s decision is the rent at which the property might reasonably be expected to be let on the open market is £540.00 per month.
35. This rent will take effect from 1st January 2020 being the date specified by the landlord in the notice of increase.

R T Athow FRICS MIRPM
Chairman

Dated 5th February 2020

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.