



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

Case Reference : **CHI/29UN/MNR/2019/0071**

Property : **Flat 1, 1 the Broadway, Broadstairs,
Kent CT10 2AD**

Applicant : **Ms S Stern - Tenant**

Representative : **None**

Respondent : **Mr F Cooper - Landlord**

Representative : **None**

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 : **7th February 2020**

Date of Decision : **7th February 2020**

DECISION

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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 is undated but was received by the Tribunal on 4th December 2019.
2. The landlord's notice, which proposed a rent of £750.00 per month with effect from 19th December 2019, is dated 22nd October 2019.
3. The tenancy commenced on 19th October 2012 at a rent of £625.00 per month and is a statutory periodic tenancy. The current rent payable is £700.00 per month with effect from 19th December 2018.
4. The Tribunal were provided with a copy of the tenancy agreement with the application.

Inspection

5. The Tribunal inspected the property on 7th February 2020 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 self-contained first floor flat in a small block set over a group of shops in the centre of Broadstairs. All amenities are close by including the main line railway station which is within 200 yards.
7. The accommodation comprises hall, living/kitchen area, 2 bedrooms, bathroom/WC. All windows are single glazed sliding sash style. There is electric central heating from a boiler situated in a cupboard in bedroom 2.
8. All main services are connected.
9. There are no tenant's improvements.
10. The tenant has provided the curtains.

Statements & Evidence

11. The Tribunal issued Standard Directions on 16th December. 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 she has made to the property.
12. The Tribunal received written representations from both parties.
13. Neither party requested a Hearing.

The Landlord's Case

14. The landlord was of the opinion that rent levels for flats in this locality had increased and so this flat was due to be increased as a result.
15. Furthermore, the tenant has pets in the flat, and also there is another person living with her. This person has not been approved or tenant checked.
16. The landlord stated the communal parts were well maintained, having been redecorated only 6 months ago. The property is kept maintained through 6 monthly inspections.
17. The rent of £750 was felt appropriate and evidence of comparables were included in the submission.

The Tenant's Case

18. The tenant stated the tanning shop underneath her flat was open long hours including Sundays.
19. One bedroom is approached through the living room.
20. There is not a separate kitchen.
21. There is no outside space, nor car parking nearby.
22. The landlord's comparables are all in better condition and locations.
23. They have separate kitchens, some have car parking spaces, and none were over shops.
24. The second comparable is quoted at £725 per month.
25. There are outstanding repairs such as poorly fitting ceiling lights, loose kitchen unit door, bath tiles require re-grouting, and some windows will not close properly.
26. In view of this it is felt the rent of £700 is the current rental value.

The Law

27. 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.
28. 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:
29. *“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,.....”*

30. 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

31. 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.
32. 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.
33. The Tribunal took note of the landlord’s evidence which were properties advertised to let, as opposed to actual lettings. As such these can only be used as a guide as it is common for the final rent to be negotiated at a lower amount.
- (a) The first has two double bedrooms, gas fired central heating and double glazing. The rent sought is £750 per month.
 - (b) The second has a roof terrace and is offered at £725.
 - (c) The third is in one of the most sought-after parts of Broadstairs.
 - (d) The fourth is to let furnished with an asking price of £800
 - (e) The fifth has a shower room and an en-suite at an asking price of £825.

- (f) The 6th & 7th are both brand new purpose-built flats and consequently will have high insulation qualities which will make them very cheap to run. As a result, they are likely to attain a higher level of rent when they are let.

34. Taking the foregoing into account the Tribunal 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 £730.00 per month.

The Decision

35. The Tribunal's decision is the rent at which the property might reasonably be expected to be let on the open market is £730.00 per month.

36. This rent will take effect from 19th December 2019 being the date specified by the landlord in the notice of increase.

R T Athow FRICS MIRPM
Chairman

Dated 7th 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.