



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

**Case Reference** : **CHI/00MW/MNR/2020/0021**

**Property** : **Flat 3 Heathfield House  
15 Pomona Road  
Shanklin  
Isle of Wight**

**Type of Application** : **Determination of market rent: Housing Act  
1988**

**Tribunal Member** : **Mr B H R Simms FRICS (Chairman)**

**Date of Decision** : **12 May 2020**

---

**REASONS FOR THE DECISION**

---

## **Background**

1. By an application received on 10 March 2020 Mr T Maslen, 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 04 February 2020 which proposed a rent of £142.79 per week with effect from 06 April 2020 in place of the passing rent of £140.40 per week.
2. The Tenancy is an Assured Periodic Tenancy commencing on 09 March 2009. The Tenancy Agreement dated 06 March 2009 was produced to the Tribunal is a weekly tenancy.
3. Directions for the conduct of the case were issued dated 13 March 2020. 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 by the parties for a hearing. On 19 March 2020 the Tribunal issued a notice in respect of the Coronavirus pandemic cancelling an inspection and requesting photographs from the parties if required. No objection to this procedure was received.

## **Inspection**

4. The Tribunal did not inspect the property.

## **Hearing**

5. Neither party requested a hearing at which they could present their case. Neither party submitted representations in accordance with Directions. Following the Coronavirus notice both the Landlord and the Tenant made written representations. The Tribunal proceeded to determine the matter based on the written evidence submitted.

## **Evidence**

6. Mr Maslen, the Tenant, explained that there had been a history of burst pipes, leaks and dampness causing him to vacate the property for a two week period to allow for repairs to be undertaken. Subsequently however the flat has suffered from excessive high humidity causing condensation damage and requiring the provision of a de-humidifier. Currently repairs are still required and to quote Mr Maslen “its disgusting”.
7. He considers that a rent in the region of £85 would be appropriate.
8. Ms E Phillips, for the Landlord, outlines the background to the case and explains that although the tenancy agreement is on a monthly rent basis the rent has been collected weekly and allowing a four week rent holiday each year to regularise the annual rental.
9. The Landlord indicates that no service charges are collected although, in his application, Mr Maslen quotes a charge of approximately £12.00.
10. Ms Phillips acknowledges that there are still problems with damp and mould in the property and repairs are ongoing.

11. The Landlord explains its method used for calculating the rent increase but makes no reference to market rents which is the basis for this Tribunal to determine the rent.

### **The Law and Valuation**

12. 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 of the Tenant are not relevant to this issue.
13. 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. Neither party submitted evidence of lettings in support of their respective rental positions.
14. The parties agree that the property has deficiencies caused by the dampness and humidity. For this reason the Tribunal cannot see that there is a case for an increase in rent. From the Tribunal's knowledge of the locality the current rent is in line with a market rent achievable for the property.
15. The Landlord might consider making an allowance in the rental charged to reflect the unpleasant environment being suffered by the tenant until the repairs are satisfactorily completed.
16. The parties are encouraged to regularise the written agreement to reflect their understanding of the terms both in respect of the rent payment frequency and service charge to avoid misunderstandings.
17. Accordingly using its own knowledge and experience the Tribunal arrives at an appropriate open market rental value of £140.40 per week. The property is in a current poor state of repair and the Tribunal determines that the rent should be reduced by £5.00 per week to reflect its condition.

### **Determination**

18. The Tribunal therefore determines that the rent at which the subject property might reasonably be expected to be let in the open market by a willing Landlord under the terms of this assured tenancy is £135.40 per week.
19. The Tribunal then considered the question of the starting date for the new rent specified in the Landlord's Notice from the point of view of hardship to the tenant (S.14(7)). In view of the current condition of the property the flat is not capable of full reasonable occupation. To reflect this the new rent of **£135.40** is not to start on the date specified in the Landlord's S.13 notice, but is to take effect on **12 May 2020** being the date of this determination.

**Mr B H R Simms (Chairman)**

**12 May 2020**

## **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.