



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

Case Reference : **CHI/00MS/MNR/2020/0006**

Property : **Flat 27 Seacole Gardens
Dale Road
Southampton
SO16 6PN**

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

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

Date of Decision : **21 May 2020**

REASONS FOR THE DECISION

Background

1. By an application dated 20 February 2020 Mr & Mrs Alzahrani, the joint Tenants, referred to the Tribunal a Notice of Increase of rent served by the Landlord under section 13 of the Housing Act 1988 dated 04 January 2020 which proposed a rent of £880.00 per calendar month with effect from 24 February 2020 in place of the passing rent of £860.00 per calendar month.
2. The Tenancy is an Assured Periodic Tenancy commencing on 25 August 2015. The Tenancy Agreement dated 06 March 2009 was produced to the Tribunal is for a period of 6 months.
3. Directions for the conduct of the case were issued dated 25 February 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. The Tenant describes the property as a ground floor flat comprising a hallway, living room with kitchen, 2 bedrooms, bathroom, balcony and parking.

Hearing

5. Neither party requested a hearing at which they could present their case. The Tenant made representations that accompanied the Application but made no further representations following the Directions. The Landlord made representations in response to Directions and partly in response to the Tenants' representations. Neither party took the opportunity to respond to the request for further information following the cancellation of the inspection. The Tribunal proceeded to determine the matter based on the written evidence submitted.

Evidence

6. The Tenants explained that there had been a previous attempt to increase the rent in 2019 but the Notice was defective. They believe that the rent they are currently paying is higher than the average in the area and therefore an increase in rent is not fair. In support of this view they provide photographs of two flats in the same development at £800.00 per calendar month.
7. Messrs Norwood, for the Landlord outlines the history of rent increases the last being 25 August 2018 to £860 per calendar month. They consider that the proposed increase and previous increases have been reasonable and fair. No evidence is submitted.

The Law and Valuation

8. 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.
9. 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. The Tenants produced brief details of lettings in the same development but the Landlord did not submit evidence in support of their rental opinion.
10. Neither party assisted the Tribunal with information regarding the quality or condition of the accommodation.
11. Accordingly having regard to the Tenants' evidence and using its own knowledge and experience the Tribunal arrives at an appropriate open market rental value of £800.00 per calendar month. In view of the special circumstances in the current market and the lack of detailed evidence the Tribunal is not prepared to determine a rent below the passing rent.

Determination

12. 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 £860.00 per calendar month.
13. 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 determination that there should be no increase in rent the Tribunal determines that it would cause hardship for the starting date of the rent to be backdated. To reflect this the new rent of **£860.00 per calendar month** is not to start on the date specified in the Landlord's S.13 notice (24 February 2020), but is to take effect on **21 May 2020** being the date of this determination.

Mr B H R Simms (Chairman)

21 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.