



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

Case Reference	:	CHI/29UC/MNR/2020/0014
Property	:	134 Swalecliffe Road, Whitstable, Kent CT5 2QA
Type of Application	:	Decision in relation to Housing Act 1988
Tenant	:	Mr J Atkins
Landlord	:	Trustees of Chestfield Golf Club
Representative	:	Boys & Maughan, Solicitors
Date of Decision	:	10 th June 2020

Reasons for the decision

Background

1. The Landlord served a notice under Section 13(2) of the Housing Act 1988 which proposed a new rent of £950.00 per month in place of the existing rent of £525.00 per month to take effect from 12th March 2020.
2. The tenancy is an assured periodic tenancy which commenced on 11th February 2003.
3. On 5th March 2020 the Tribunal received an application from the Tenant under Section 13(4) (a) of the Housing Act 1988.
4. On 10th March 2020 the Tribunal made Directions requiring the Landlord to send a statement to the Tenant and to the Tribunal supporting the application for an increase in rent by 24th March. The Tenant was also required to send a statement to the Landlord and to the Tribunal in support of his objection by 7th April.

5. The Directions stated the matter would be determined on the papers without a hearing, unless a party objected. No objections were received.
6. The Covid 19 pandemic caused the country to go into “lockdown” from 24th March, and the Government’s advice has resulted in a suspension of inspections and of Tribunal hearings in person until further notice.

Information

7. This matter is dealt with as a paper determination without hearing. In the current circumstances it has not been possible to inspect the property and the Tribunal relies on any submissions from the Landlord and Tenant in correspondence, publicly available housing data online and its own expert knowledge.
8. From the application, the Tribunal understands that the property has 2 bedrooms, bathroom/WC, Living/dining room, kitchen, utility, and a garden. (The words are difficult to read in some places).
9. From Google Street View it is not possible to identify the particular property, but the Postcode shows the locality to be a group of similar semi-detached houses at the end of a road in a residential part of Whitstable, about ½ mile from the town centre and railway station. There is a primary school within 100 yards of the property. The seafront and main A299 road are about ¼ mile away.

Tenant’s submissions.

10. Mr Atkins’ application includes a list of works he has undertaken;
 - (1) Complete house re-wire in 2009 including consumer unit and extra sockets – approximate cost £2,500.
 - (2) New fencing to the brook side in 2005 – approximate cost £1,500.
 - (3) New fencing to the right side of the garden in 2010 – approximate cost £1,500.
 - (4) New electric radiators in 2020 – approximate cost £1,300.
 - (5) Re-plastered walls and ceilings of the lounge and dining room (no specified date) – approximate cost £350.
 - (6) Gutting of kitchen and fitting new kitchen units, work surfaces, sink and taps (no date specified) - £3,000.
11. He states that the landlord has done no maintenance to the property since the 1970’s but they have recently commenced to replace the soffits, gutters and bargeboards, as well as some roof repairs.
12. The double-glazed windows are from the 1970’s and it appears the seal in the panes has failed as they are steamed up.
13. No furnishings are provided, and the tenant is responsible for internal decoration and the landlord is responsible for all repairs.

14. There is no tenancy agreement.

Landlord's submissions.

15. The tribunal received an e-mail from Boys & Maughan dated 13th May 2020 stating they had not received any representations from their client. Boys & Maughan understood the landlord would be dealing with the Tribunal direct. The Tribunal has not received any submissions from the Landlord.

The Law

16. S14 Determination of Rent by First-tier Tribunal

(1) Where, under subsection (4) (a) of section 13 above, a Tenant refers to a First-tier Tribunal a notice under subsection (2) of that section, the Tribunal shall determine the rent at which, subject to subsections (2) and (4) below, the Tribunal 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-

(a) any effect on the rent attributable to the granting of a tenancy to a sitting Tenant;

(b) 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, if the improvement- was carried out otherwise than in pursuance of an obligation to his immediate Landlord, or

(c) (ii) was carried out pursuant to an obligation to his immediate Landlord being an obligation which did not relate to the specific improvement concerned but arose by reference to consent given to the carrying out of that improvement; and

(d) any reduction in the value of the dwelling-house attributable to a failure by the Tenant to comply with any terms of the tenancy.

(3) For the purposes of subsection (2)(b) above, in relation to a notice which is referred by a Tenant as mentioned in subsection (1) above,

an improvement is a relevant improvement if either it was carried out during the tenancy to which the notice relates or the following conditions are satisfied, namely-

- (a) that it was carried out not more than twenty-one years before the date of service of the notice; and*
 - (b) that, at all times during the period beginning when the improvement was carried out and ending on the date of service of the notice, the dwelling-house has been let under an assured tenancy; and*
 - (c) that, on the coming to an end of an assured tenancy at any time during that period, the Tenant (or, in the case of joint Tenants, at least one of them) did not quit.*
- (4) In this section "rent" does not include any service charge, within the meaning of section 18 of the Landlord and Tenant Act 1985, but, subject to that, includes any sums payable by the Tenant to the Landlord on account of the use of furniture, in respect of council tax or for any of the matters referred to in subsection (1) (a) of that section, whether or not those sums are separate from the sums payable for the occupation.*

Consideration and Determination

17. The Tribunal has considered the representations received.
18. 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.
19. The personal circumstances of the Tenant are not relevant to this issue.
20. In determining the appropriate rent, the Tribunal would disregard any improvements made under Mr Atkins' existing tenancy.
21. Neither party has submitted rent comparables and so the Tribunal has had to use its own knowledge and experience of rent levels in this part of Kent. It decides that if the property was in a good lettable condition it would be likely to achieve a rent of £850.00 per month.
22. For the property to achieve such a rent it would need to be in good condition throughout, free of damp and with central heating, a fitted kitchen with integral white goods, modern bathroom and WC. It would also be expected to have good quality floor coverings and curtains.
23. The tenant's submissions indicate that over the past 30 – 40 years the landlord has not maintained the property to a reasonable standard and the tenant has had to carry out the repairs and improvements listed above to keep it in repair and good condition. These works are to be excluded for the purpose of reaching the rent to be Registered.

24. If these works had not been carried out by the tenant a prospective Tenant would expect to pay a lower rent to reflect those shortcomings. The Tribunal considers that the reduction in rent to reflect this would be of the order of around 25% to £637.50 per month, but say £640.00 per month.
25. The Tribunal therefore determines that the rent payable from 12th March 2020 being the date stated in the notice is £640 per month.

R Athow FRICS MIRPM
Valuer Chair
10th June 2020

PERMISSION TO APPEAL

1. A person wishing to appeal the decision to the Upper Tribunal (Lands Chamber) 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.