



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

**Case Reference** : CHI/29UH/MNR/2020/0039

**Property** : 27 Wallis Place, Hart Street, Maidstone, Kent  
ME16 8FB

**Type of Application** : Decision in relation to Housing Act 1988

**Tenant** : Sabrina Wood

**Landlord** : Places For People

**Date of Decision** : 21<sup>st</sup> July 2020

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**Reasons for the decision**

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## **Background**

1. The Landlord served a notice under Section 13(2) of the Housing Act 1988 which proposed a new rent of £668.09 per month in place of the existing rent of £628.93 per month to take effect from 1<sup>st</sup> April 2020. The current rent included £8.63 Personal Water Usage for her home and Fixed Service Charge of £132.33
2. The tenancy is an assured periodic tenancy from 8<sup>th</sup> October 2012. A copy of the tenancy agreement was included in the bundle.
3. On 29<sup>th</sup> March 2020 the Tribunal received an application from the Tenant under Section 13(4) of the Housing Act 1988 dated 25<sup>rd</sup> March 2020.
4. On 19<sup>th</sup> May 2020 the Tribunal made Directions informing the parties that in view of the Governments advice with respect to the Covid-19 outbreak an inspection would not take place. The parties were given the opportunity to provide supporting photographs of the property and if desired make representations to have the case stayed until an inspection was possible.
5. The Directions required the Landlord to send a statement to the Tenant and to the Tribunal supporting the application for an increase in rent. The Tenant was also required to send a statement to the Landlord and to the Tribunal in support of her objection.
6. Upon receipt of the additional papers from the parties it was found that further information was required from the Landlord and this was received on 17<sup>th</sup> July 2020.

## **Information**

7. The 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 submissions from the Landlord and Tenant in correspondence, publicly available housing data online and its own expert knowledge.
8. Tenant's submissions. In her original application Miss Wood said the rent had steadily increased on a yearly basis during the course of her tenancy. The 6% increase year on year is significantly more than her wages had risen.
9. She felt the rent was unreasonable considering it was only a one bedroomed flat without balcony or garden area.
10. She lives alone and has sole responsibility for all the bills.
11. Having seen the Landlord's submissions, she made further comments.
  - (1) They have only offered one comparable – 5 Wallace Place.
  - (2) She is being charged more for her water than Flat 5.

- (3) They advise they are responsible for replacing carpets and the oven, but in the 7 years she has been in the flat the carpets have not been replaced even though she has made a couple of requests.
- (4) There have been no major repairs other than a couple of plumbing repairs.
- (5) There has been no upgrade to any of the fixtures & fittings.
- (6) Consequently, her living conditions remain the same as when she started her tenancy.
- (7) When she moved in the Landlord gifted her the washing machine and fridge freezer, so consequently she is responsible for the maintenance and upkeep of these which is reflected in her rent.

12. Landlord’s submissions. The Landlord set out the breakdown of the new basic rent, Personal Water for the flat and fixed service charge in an e-mail to the Tenant dated 16<sup>th</sup> June 2020. This was included in the bundle.

<b>Monthly rent</b>		£	510.01
<b>Personal Water Usage</b>		£	29.17
<b><u>Fixed Service Charge</u></b>			
Administration Charge for Home Services	£	4.38	
Administration Charge for Communal Services	£	16.24	
Fire Safety Equipment			
Repairs to Furniture & Equipment	£	1.10	
Services provided by other agents	£	93.34	
Personal Furniture & Equipment for your home	£	13.85	£ 128.91
monthly rent			£ 668.09

13. A copy of the tenancy agreement for Flat 5 Wallis Place was included. It commenced on 1<sup>st</sup> June 2018. On Page 2 under the Heading “Payment for the Premises” three elements of rent were listed –Net monthly rent was £481.20, the Service charge was £141.96, Water Services Charge was blank. It is not specific as to whether this is a Fixed or Variable Service Charge. It goes on to say

“The total monthly charge will include any other charges as shown above. In this Agreement the term Rent or monthly charge refers to the sum of the Net Rent plus Service Charges and any Water Charges.

If no amount is shown for Water Service Charges then that item is not payable to the Landlord. However, the Tenant will be liable to the provider of water services to pay charges as required.”

14. Attached to the agreement for Flat 5 was a Schedule of Service Charges. It includes an amount of £17.53 und the heading “Personal Water for your Home”. Whilst the other elements are similar to those of the subject Flat, they differ slightly and in addition there is a further item “Fire Safety Equipment” amounting to an additional sum of £1.62.

15. A budget and Unaudited accounts for the year ending 31<sup>st</sup> May 2019 for Blue Quarter Management Company Limited were enclosed, as were copies of Service Charge and Water Charge demands for the flat addressed to the Landlord.
16. A Rightmove “Best Price Guide” was attached to the bundle. It gives the best data and local market trends to help tenants understand how the rent is set. It uses an area within 1/4 mile radius of the subject property in the period 15<sup>th</sup> March to 15<sup>th</sup> June 2020. It gives at least 5 comparable 1 bedroomed properties, either to let or under offer, with rents ranging from £700 to £800 per month. Most of these have parking facilities for one car.

## **The Law**

### 17. 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**

18. The Tribunal has considered the representations of both parties.
19. 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.
20. The personal circumstances of the Tenant are not relevant to this issue.
21. In determining the appropriate rent, the Tribunal would disregard any improvements made under the existing tenancy.
22. The Landlord's evidence from Rightmove is indicative of rent levels for open market rents let on Assured Shorthold Tenancies in the normal letting market, with no additional costs recoverable for Service Charges. In such cases tenants are directly responsible to the suppliers for Water, drainage and Local authority taxes.
23. In this instance the tenancy includes a sum for Fixed Service Charge and Personal Water Usage.

24. The Landlord's comparison of Flat 5 was not helpful as it was not clear if the Service Charge was variable, and in any instance the items chargeable differed to the subject property.
25. The budget and year accounts were not relevant to the Tribunal because the tenancy pays a fixed service charge.
26. Section 14(1)(c) of the Act deems this tenancy to be subject to a non-variable service charge and consequently section 14(4) provides that the Rent determined by the Tribunal will include sums payable for this non-variable service charge in the Rent it registers. Non-variable service charges are commonly known as Fixed Service Charges.
27. The Tribunal decides the rental value of the flat in good repair and condition would have a market rental value of £750.00 per month.
28. The Tribunal finds that some allowance should be made for the ageing carpets and the fact that the tenant is liable for some of the white goods which would normally be included in a modern tenancy of this age of property. Also, the landlord has failed to deal with the tenant's request to replace the ageing oven, hob and extractor fan. It assesses that a 10% reduction would be appropriate.
29. The Tribunal therefore determines that the rent payable from 1<sup>st</sup> April 2020 being the date stated in the notice is £675.00 per month inclusive of Fixed Service Charge, but exclusive of Water Charge.

R T Athow FRICS MIRPM  
Valuer Chairman

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## **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.