FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case reference	**:**	**CAM/33UC/MNR/2020/0017**
HMCTS code	**:**	**A:BTMMREMOTE**
Property	**:**	**12 Station Road, Lingwood, Norwich NR13 4AU**
Applicant	**:**	**1. Mr David Southern; and 2. Mrs Ann Mari Southern**
Respondent	**:**	**Mr Matthew Tubby**
Representative	**:**	**Starkings & Watson**
Type of application	**:**	**Decision under section 14 of the Housing Act 1988 (**the "**1988 Act**")
Tribunal members	**:**	**Judge David Wyatt** **Gerard Smith MRICS FAAV REV**
Date of decision	**:**	**7 August 2020**

DECISION

Covid-19 pandemic: description of hearing

This has been a remote audio hearing. The form of remote hearing was A:BTMMREMOTE. A face-to-face hearing was not held because it was not practicable and all issues could be determined in a remote hearing. The documents that we were referred to are in a bundle comprising copies of the application form, notice of intention to increase the rent, tenancy agreement with inventory, case management directions and reply forms from both parties. We have noted the contents.

Decision:

1. The tribunal determined a rent of £640 per month to take effect from 11 June 2020.

Reasons

The property

1. No inspection took place due to measures introduced to combat the spread of the Coronavirus (COVID-19) and to protect the parties and the public, particularly those at risk.

2. The property is a semi-detached bungalow with two bedrooms, one living room, one bathroom, gardens, a garage and off-street parking. It has central heating, double glazing, carpets and curtains all originally provided by the landlord.

The tenancy

3. The original assured shorthold tenancy agreement was for a fixed term of six months from 11 July 2011. The tenants now occupy under a statutory monthly periodic assured shorthold tenancy.

4. The property was let unfurnished. No council tax or other charges are specified in addition to the rent. The landlord provides gardening services for the front garden, but the landlord's representative agreed at the hearing that this would have a negligible effect on the rent.

5. The tenancy agreement has the usual basic interior repairing liabilities for the tenants (in summary, not to cause damage, and to keep the interior and the landlord's fixtures and fittings described in the inventory attached to the agreement in the same condition), which allow for reasonable wear and tear. The landlord has the repairing obligations which are implied by section 11 of the Landlord and Tenant Act 1985.

The referral

2. The landlord by a notice in the prescribed form dated 29 April 2020 proposed a new rent of £650 per month to take effect from 11 June 2020. On 19 May 2020, the tenant referred the notice to the Tribunal.

3. The parties were unable to confirm the precise date of the last rent increase, but agreed at the hearing that it was during, or before, 2018.

4. The tribunal issued directions on 20 May 2020, informing the parties that it did not intend to inspect the Property and inviting them to submit any further representations (including any photographs and details of rentals for similar properties) that they wished the tribunal to consider. Reply forms were received from both parties.

The law

5. By section 14(1) of the 1988 Act the tribunal is to determine a rent at which the dwelling-house concerned might reasonably be expected to be let in the open market by a willing landlord under an assured periodic tenancy-
   (a) 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 rent) are the same as those of the subject tenancy

6. By section 14(2) of the 1988 Act, in making the determination the tribunal shall disregard –
   (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 (as defined by section 14(3) of the 1988 Act) carried out by a tenant otherwise than as an obligation; and
   (c) any reduction in the value of the dwelling-house due to the failure of the tenant to comply with any terms of the subject tenancy.

Representations

7. Written representations were provided by the landlord and the tenants, as mentioned above. At the hearing on 29 July 2020, Mr Southern represented the tenants and Mr Starkings represented the landlord.

8. The tenants' reply form had not been copied to the landlords. The contents were explained at the hearing and Mr Starkings confirmed that he was content for the tribunal to take them into account.

9. The tenants accepted that the market rent of the property with the improvements they had made would be at the level the landlord was seeking. Mr Southern suggested potentially £650 or £700 per month. However, he said that the tenants had spent about £7,000 on improvements and the value of these should be deducted; they had been very disappointed to receive the proposed rent increase after they had done all this work to the property. In relation to these improvements, they said that:

   a. they had installed a new kitchen recently, including a new Beko induction hob and cooker which was better and more economical than the one provided by the landlord originally, and had provided their own white goods;

   b. the landlord recommended the electrician they used for the new kitchen. That electrician identified serious electrical issues with the wiring in the loft and elsewhere in the house, including

inadequate earthing and overloaded junction boxes in the loft. Mr Southern said that the electrician carried out the necessary remedial work with the agreement of the landlord in late 2019 and gave the electrical safety certificate to the landlord. Mr Starkings said that the tenants had paid for the electrical works which related to the new kitchen (such as the wiring to the new cooker and other items) and the landlord had paid for the certificate and other work in the loft and elsewhere; Mr Southern confirmed that was correct;

c. they had put new flooring in the lounge, hallway, bathroom, kitchen and bedroom;

d. they had put in a new bathroom about three or four years ago; Mr Southern did the work himself, except that the landlord's plumber installed the shower at the tenants' expense; and

e. they had put in a new gate and new car port, to replace a rotten old gate and a worn car port which was becoming detached from the house.

10. Mr Starkings accepted that all these improvements had been carried out by the tenants at their own expense (as clarified above in respect of the electrical works), that the landlord had given consent for them and that the tenants were not obliged to carry out any of these improvements. He confirmed that he was not aware of any work carried out by the landlord over the nine years the tenants have been in occupation, other than the costs of the general electrical work referred to above, although his firm had not been involved with the property throughout. He said that the rent increase was based on his advice and separate from the landlord's discussions with the tenants about the works to the property.

11. Mr Starkings said that his firm had several two-bedroom bungalows rented out since 2018, all at rents of £650 or higher. He said that a property of this type in this condition would be in the range of £700 to £725. He accepted that the value of the tenants' improvements needed to be deducted from the rent and did not dispute the estimated total costs of £7,000, but said that these improvements will not translate into a very substantial difference in monthly rent. He had deducted £50-£75 per month for the improvements to arrive at the new rent of £650 proposed in the notice. When challenged about the possible effect on rent if the electrical work had not been carried out, he pointed out that the main costs had been paid by the landlord (as described above and agreed by the tenants).

Determination

12. The tribunal determines a market rent for a property by reference to rental values generally, and to the rental values for comparable properties in the locality in particular. It does not base this on the

present rent and the period of time that rent has been charged, or any percentage increase relative to the existing rent. In addition, the law makes it clear that the tribunal cannot take into account the personal circumstances of either the landlord or the tenants for the purpose of determining the amount of the rent.

13. We recognise that the tenants were disappointed that a rent increase was proposed after they had carried out their improvements. In future, they may wish to discuss such matters with their landlord before making further improvements. As noted above and explained at the hearing, we are required to determine the market rent based on rental values, with a deduction to disregard any increase in value which is attributable to the relevant improvements.

14. Despite the case management directions, none of the parties produced any real evidence of comparable properties or any good quality photographs of the property. As a result, we had to rely on the limited information provided by the parties in writing and at the hearing, assessed using our general knowledge and experience. On this basis:

    a. we accept the evidence from Mr Starkings about the open market rental value (before the disregard of tenant improvements) and assess this at £700 to £725 per month;

    b. we recognise the substantial improvements carried out by the tenants. We accept the evidence of Mr Starkings that these do not increase the monthly rental value as much as the tenants' expenditure might suggest, but a greater deduction than his £50-£75 needs to be made to properly disregard them. As a cross-check, if the cost of approximately £7,000 was spread over a reasonable possible lifespan for such works, of seven to 10 years, it would represent about £60 to £80 per month; and

    c. we assess the adjusted rent at £640 per month.

15. Accordingly, the rent determined is £640 per month. This rent will take effect from 11 June 2020.

Name: Judge David Wyatt **Date:** 7 August 2020

Rights of appeal

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber), then a written application for permission must be made to the First-tier Tribunal at the regional office which has been dealing with the case.

The application for permission to appeal must arrive at the regional office within 28 days after the tribunal sends written reasons for the decision to the person making the application.

If the application is not made within the 28 day time limit, such application must include a request for an extension of time and the reason for not complying with the 28 day time limit; the tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed, despite not being within the time limit.

The application for permission to appeal must identify the decision of the tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal and state the result the party making the application is seeking.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).