



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

Case Reference : **CHI/24UE/MNR/2020/0034**

Property : **28 Coleridge Drive, Whiteley,
Fareham, Hampshire, PO15 7NN**

Applicant : **Nicola Leslie (tenant)**

Respondent : **Hyde Housing Association (landlord)**

Date of Application : **17th March 2020**

Type of Application : **Sections 13 and 14 of the Housing Act
1988**

Tribunal : **Mr R T Brown FRICS
Mr M Woodrow MRICS**

Date : **Considered on 25th August 2020**

REASONS FOR DECISION

Background

1. The Tribunal gave formal notice of its decision by a Notice dated 25th August 2020 in the sum of **£700.00 per calendar month**.
2. An application dated 17th March 2020 was received by the Tribunal from the tenant of the above property in respect of a notice of increase of rent served by the landlord under section 13 of the Housing Act 1988.
3. The landlord's notice dated 10th February 2020 proposed a rent of **£676.00 per calendar month** with effect from 1st April 2020, in place of the current rent of £640.00 per calendar month.
4. A written assured shorthold tenancy agreement commencing on 10th March 2017 was provided to the Tribunal. That agreement is in the common form with the Landlord responsible for maintaining the property and the tenant responsible for keeping and maintaining the internal decorations.

Property and Inspection

5. Following the Directions dated 25th May 2020 and the explanation contained therein, the Tribunal did not inspect the premises.
6. Extracting such information as it could from the papers supplied to the Tribunal by the parties, by reference to information publicly available on the internet and with the benefit of its knowledge and experience, the Tribunal reached **the following conclusions and found as follows:**
7. The property is located within an established suburban residential area of mixed dwellings. Local amenities are available.
8. The property comprises a ground floor flat in a purpose built 3 storey block constructed circa 2007.
9. The accommodation comprises: Living Room, Kitchen (including cooker), Bathroom/wc and 2 Bedrooms. Floor coverings.
10. There is an allocated off street parking space.
11. Mains gas, water, electricity and drainage are assumed to be connected. There is central heating to radiators.
12. As far as the Tribunal could ascertain from the information provided, the property is in a satisfactory state of repair for letting although it appears there is an ongoing dispute between the parties as to whether or not some works have been satisfactorily completed.

Hearing

13. A hearing was not requested.

Documents supplied to and considered by the Tribunal

14. Tribunal Directions dated 25th May 2020.
15. Tenancy Agreement commencing 10th March 2017 at £650.00 pcm.
16. A number of email 'chains' between the parties including photographs and some 'jpegs' which the Tribunal was unable to open.
17. Landlord: Tribunal Reply Form and witness statement of Ms D Jones, Lead Rent and Compliance Officer, Hyde Housing.
18. Tenant: Application form, which included a hand written statement by the Tenant, Tribunal Reply Form which included another statement and some comparables.

Landlord's Representations

19. The Landlord's witness Ms D Jones provided a statement which included:
 - a) The FTT Reply Form.
 - b) Schedule of Comparables used to justify the rent.
 - c) The Tenancy Agreement commencing 10th March 2017.
 - d) Notice of Rent Increase dated 10th February 2020.
20. Comparables: Which Ms Jones says are all good comparables in terms of location but with minor differences as to the standard of fit out.
 - a) 47 Dumas Drive, Whiteley, Fareham PO15 7LU: Purpose Built 2 bedroom unfurnished flat. Let agreed at £850.00 pcm in October 2019.
 - b) 19 Dumas Drive: Purpose Built 2 bedroom unfurnished flat. Let agreed at £850.00 pcm in July 2019.
 - c) Flat 8 Kempton Court, Timor Close, Whiteley, Fareham PO15 7EH: Purpose Built 2 bedroom unfurnished flat. Said to be a lower specification. Let agreed at £850.00 pcm in January 2020.
 - d) Flat 9 Kempton Court: Purpose Built 2 bedroom unfurnished flat. Said to be a lower specification. Marketed at £875.00 pcm. Details did not show whether let or available.

Tenant's Representations

21. The Tenant made written representations.
22. The tenant's representations may be divided into two parts:
 - a) Ongoing dispute with the Landlord in relation to damp ingress and whether or not the work undertaken has been satisfactorily completed.
 - b) Comparable evidence of rent levels for other flats nearby.
23. Comparables:

- a) Angelica Way, Whiteley, PO15 : 2 bedroom purpose built second floor flat including white goods. Let agreed from an asking figure of £750.00 pcm in June 2020.
- b) Angelica Way, Whiteley PO15: Two other 2 bedroom purpose built flats including white goods. One is available and one is let agreed from asking rents of £775.00 pcm.
- c) Arbour Court, Whiteley, PO15: Modern well presented second floor 2 bedroom flat. Asking Rent £775.00 pcm.
- d) Rowan Close, Fareham PO15: 2 bedroom coach house flat with garage, parking and white goods. Let agreed from an asking rent of £850.00 pcm.

- 24. In comparison, the subject flat does not have the benefit of the full range of white goods and she says it still suffers from damp issues.

The Tribunal's Deliberations

- 25. The Tribunal may proceed to determine the rent at which it considers the subject property might reasonably be expected to let on the open market by a willing landlord under an assured tenancy.
- 26. The Tribunal found as a matter of fact that the notice was a Notice under section 13 as prescribed by Statute.
- 27. 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 Tenant are not relevant to this issue nor, in this particular case, the ongoing dispute relating to damage to the Tenant's possessions.
- 28. Neither party explained in their statements the specific reason for including the email 'chains' submitted in relation to the level of market rent. As far as the Tribunal could ascertain, the 'chains' related in the main to the dispute between the parties in relation to the historic repair issues (going back as far as 2017) and the apparently unresolved claim for compensation by the Tenant.
- 29. On the test of a 'balance of probability' (the level of evidential proof for civil disputes) the Tribunal is persuaded by the Landlord's representations that the property is in a satisfactory state and condition for letting (although there may still be unresolved items of repair). The Tenant has not provided independent evidence that there are significant ongoing issues with the property as opposed to the apparent dispute over compensation which cannot not form part of this determination.
- 30. Based on the knowledge of its members, the market for this type of property is very sensitive to condition and inventory. In this case, if offered today in the market, the property would require some enhancement and an upgraded inventory to include additional white goods rather than just a cooker.

31. The Tribunal considered the comparable evidence supplied by the Landlord and the Tenant and found that all the figures quoted by both parties are substantially above the rent requested by the Landlord.
32. After considering the evidence of rent levels provided by the parties, the Tribunal noticed that neither had drawn any specific conclusion as to the correct rent for the subject property nor where the comparables are of actual lettings as opposed to 'available' or 'let agreed'. The Tribunal therefore could only place limited weight on the comparables presented.
33. 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 Tribunal therefore relied on its own knowledge of general rent levels for this type of property and determined that the starting point should be **£750.00 per calendar month**.
34. In this case, the Tenant supplied her own white goods (other than the cooker) and a deduction must be made for the differences to the comparable properties. The Tribunal has therefore deducted £50.00 from the starting point of £750.00 per calendar month to reflect this.
35. The Tribunal is an expert tribunal and entitled to rely on its knowledge and experience of the relevant property market and found that the market rent for the subject is **£700.00 per calendar month**, after taking into account the representations as to the current state of repair and accommodation provided.
36. This is the maximum rent the Landlord can charge and will take effect from 1st April 2020 being the date specified by the landlord in the notice of increase, subject to the statutory provisions of the Housing Act 1988.

Relevant Law

37. Sections 13 and 14 of the Housing Act 1988.
38. Assured Tenancies and Agricultural Occupancies (Forms) (England) Regulations 2015 (SI 2015 No.620)

Robert T Brown Chairman

Appeal Provisions

1. A person wishing to appeal this 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 which application must:-

- a. be received by the said office within 28 days after the Tribunal sends to the person making the application written reasons for the decision.
 - b. 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
2. If the application is not received within the 28-day time limit, it must include a request for an extension of time and the reason for it 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.