



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

Case Reference : **CHI/00HY/MNR/2020/0057**

Property : **20 Hartington Road
Salisbury
Wiltshire
SP2 7LG**

Applicant : **Mrs Justyna Kaczorowska
& Mr Pawel Krakowski**

Representative : **None**

Respondent : **Ms Philippa Warner**

Representative : **None**

Type of Application : **Determination of a Market Rent
sections 13 & 14 of the Housing Act
1988**

Tribunal Members : **Mr I R Perry BSc FRICS
Mrs J E Coupe FRICS**

Date of Inspection : **None. Paper Determination**

Date of Decision : **14th September 2020**

DECISION

Summary of Decision

1. On 14th September 2020 the Tribunal determined a market rent of £825 per month to take effect from 24th July 2020.

Background

2. The case concerned the determination of a market rent for the subject property following a referral of the Landlord's notice of increase of rent by the Tenant pursuant to sections 13 and 14 Housing Act 1988.
3. On 10th June 2020 the Landlord served a notice under Section 13(2) of the Housing Act 1988 which proposed a new rent of £845 per month in place of the existing rent of £795 per month to take effect from 24th July 2020. The notice complied with the legal requirements.
4. On 5th July 2020 the applicants referred the matter to the Tribunal under Section 13(4) (a) of the Housing Act 1988.
5. The Tribunal office informed the parties that the Tribunal intended to determine the rent on the basis of written representations subject to an objection from either party. No objection was made. The parties submitted written representations, copies of which were sent to each other.

Evidence

6. On 14th September 2020 the Tribunal considered the papers submitted by the parties which included copious photographs and evidence of other properties presently to let in the general area.
7. Having considered the representations the Tribunal first considered whether it could reasonably decide the matter based on the papers provided and decided that it was appropriate to proceed to a determination.
8. The property is described as an end-terrace house within walking distance of Salisbury City centre and railway station and comprises a living room, kitchen, one reception room, two bedrooms, bathroom and garden. Windows are double-glazed and there is a central heating system. The Tenant provides white goods except for the cooker. Parking is on-street with permits.
9. The tenancy commenced on 24th February 2017 at the existing rent of £795 per month.
10. There is no party wall in the loft. The Tenant complains of bird droppings from the open chimneys, a rotten threshold to the kitchen door, some mould on carpets and a missing garden gate.

The law

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-
 - (i) was carried out otherwise than in pursuance of an obligation to his immediate landlord, or
 - (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
 - (c) 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 Valuation

- 11. 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.
- 12. Having carefully considered the representations from the parties and associated correspondence and using its own judgement and knowledge of rental values in Salisbury and south Wiltshire the Tribunal decided that the market rent for the subject property if let today in a condition that was usual for such an open market letting would be £875 per month.
- 13. The Tribunal decides that it should reflect the lack of a party wall in the attic which might be viewed as a security issue and reduces the rent by £20 per month to reflect this.
- 14. In addition, the Tribunal needs to reflect the Tenant's provision of white goods and the minor repair issues referred to in the papers.
- 15. Using its experience the Tribunal decided that the following adjustments should be made:

Tenant's provision of white goods	£10
Lack of party wall in attic	£20
Disrepair	<u>£20</u>
TOTAL	£50

- 16. The Tenant made no representation that the starting date for the new rent specified in the Landlord's notice would cause the Tenant undue hardship.

Determination

17. The Tribunal therefore decided 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 was £825 per month.
18. The Tribunal directed that the new rent of £825 per month should take effect from 24th July 2020 this being the date within the notice.

Chairman: I R Perry BSc FRICS

Date: 14th September 2020

RIGHTS OF APPEAL

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.
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