



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

Case reference : **CAM/00JA/MNR/2020/0025**

HMCTS code : **A:BTMMREMOTE**

Property : **Manor House, 23 High Street,
Ginton, Peterborough, PE6 7LS**

Applicant : **Christian DeFeo & Caroline Earle**

Represented by : **N/A**

Respondent : **Judith Jacobs**

Represented by : **Rachel Sims - Hewitsons LLP**

Type of application : **Section 14 of the Housing Act 1988
Determination of market rent
payable.**

Tribunal member(s) : **M Hardman FRICS IRRV(Hons)**

Date of hearing : **23 November 2020**

Date of decision : **16 December 2020**

DECISION

Covid-19 pandemic: description of hearing

This has been a remote [audio] hearing which has been consented to by the parties. 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 I was referred to are in individual bundles produced by the Applicant and the Respondent. I have noted the contents and my decision is below.

Decision:

1. The Tribunal determined a rent of **£2,150** per calendar month to take effect from **16 December 2020**.

Reasons

Background

2. The Landlord by a notice in the prescribed form dated 24 August 2020 proposed a new rent of £2500 per calendar month to be effective from 15 October 2020. On 22 September 2020 the tenant referred the Notice to the Tribunal. This was in lieu of the £1600 per month which appears to take effect from 15 October 2019.
3. 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.
4. Parties were requested to complete a pro forma supplying details of the accommodation on a room by room basis, the features of the property (central heating, white goods, double glazing, carpets and curtains) and other property attributes and any further comments that they may wish the tribunal to take into consideration. This could include any repairs and improvements that had been made, any comments on the condition of the property and rentals of similar properties – should they wish to rely on these.
5. They were invited to include photographs and were informed that the Tribunal may use internet mapping applications to gather information about the location of the property and may inspect externally.
6. The determination would take place based on the submissions from both parties unless either party requested a hearing. Further evidence together with photographs was submitted by the landlord and the tenant and the tenant requested a hearing on 28 October 2020.
7. The tenant sought permission to supply further information on 16 November 2020 but permission was refused on the basis that it did not appear to add anything significant to the large amount of information that had already been submitted. The tenants were advised that they could raise any issues at the hearing.

8. The parties were also reminded that the hearing was to determine the market rent of the property - and that the tribunals jurisdiction did not extend to matters beyond this.

The Property

9. The property is a large Grade II listed stone farmhouse set in grounds of approximately 1.5 acres.
10. The property is currently on the market for sale and the sales particulars record the property as having a hall, four receptions and a kitchen and utility to the ground floor, four bedrooms and three store rooms to the first floor with a bathroom and wc. On the second floor is a sitting room, two bedrooms and cloakroom.
11. There is a garage and an outhouse and off-road parking for a number of cars.
12. There is no central heating. The main rooms are heated by electric storage heaters
13. The carpets and curtains were provided by the landlord whilst most white goods were provided by the tenant with the exception of an Aga in the kitchen (see later).

The Tenancy

14. The Tenancy commenced as a contractual Assured Shorthold Tenancy for a fixed term of what the tenancy agreement states to be 4 months, but also states to be from 15 June 2018 and ending on 14 October 2019. A copy of the agreement dated 14 June 2018 was provided. From 14 October 2018 (or 2019) a statutory tenancy on the terms of the written agreement appears to have arisen. Section 11 of the Landlord and Tenant Act 1985 applies in respect of Landlord's repairing obligations.

The Law

15. By virtue of section 14 (1) Housing Act 1988 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
16. By virtue of section 14 (2) Housing Act 1988 in making a 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) Housing Act 1988) 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 – Tenant

- 17. The tenants said that it was wrong to regard this as a 7-bedroomed house. Three of these rooms led directly off the main bedroom. The flooring was chipboard and the fit-out more like a loft. There were no windows and no heating and the walls were bare brick. They did not use these rooms and did not regard them as safe.
- 18. The oil-fired Aga in the kitchen was not working and hadn't done since the landlords has asked them to disconnect it in February 2020 to allow the chimneys to be swept. Previously it had worked only intermittently. They had previously called the AGA engineer who had said that it was over 40 years old and poorly maintained. Following shutting it down it needed an AGA engineer to come out and relight it and the landlords did not respond to this request – nor to allowing them to pay for it and deduct it from the rent and so the AGA remained turned off. As it provided the sole heat to four downstairs ancillary rooms and the three first floor store rooms referred to in paragraph 17 above. It also supplied hot water to the kitchen and was the main cooking facility.
- 19. The remainder of the house had either small storage heaters and the top floor had no heat at all. They reported that the windows were draughty and needed attention and there were missing floorboards in the main bedroom.
- 20. They reported that carpets to some of the rooms were threadbare and that they had had some of the carpets cleaned to try to remove stains and smells.
- 21. They did not accept that the gardener's services for 30 hour a week which is provided for in their tenancy agreement reflected the reality – maintaining that he was undertaking gardening work on the property for far less time than that.
- 22. There was a dispute between the parties on the electricity. The tenants said that the electricity for the house is on the same meter as parts of the landlord's property and that they had never been provided with a detailed account – just a letter from Mrs Jacobs apportioning the bill. They did not believe that this was fair or reasonable and whilst they had paid £2000 as a gesture of goodwill towards the bill they had offered to pay the revised rent of £1600 per month only on the basis that it included electricity.

23. They felt that the landlord had arbitrary access for viewings and gave them only 24 hours' notice. The viewings were disruptive and at they had felt pressurised to allow them. They felt that it was unreasonable that they were being expected to keep it constantly clean and tidy to help the landlord sell the house. There had been no viewings since March this year due to shielding due to COVID-19.
24. They did not provide any comparables or suggest a level of rent – beyond that they were prepared to pay the previous increase to £1600 with effect from October 2019 on the proviso that this included electricity. This suggest that they believed the market rent to be less than £1600 per month.

Representation – Landlord

25. Ms. Simms for the landlord said that it was made clear in the rental agreement that the 3 first floor rooms were store rooms and not bedrooms.
26. Mrs Jacobs, the landlord said that the tenants had viewed the property in full prior to the agreement and were able to see the Aga. It was left in full working order and she had previously spent £2500 to fix it. She did not call an AGA engineer out to relight it but believed that the instructions left should have made this possible for the tenants to do so.
27. The kitchen also had a gas oven and hob and whilst accepting that the gas certificate had previously been allowed to lapse they were both now certified as being in full working order.
28. She said that it was a very nice house when the tenants moved in, the carpets were all 80% wool, the bathrooms had been refurbished. She accepted that it was a little cold although there were storage heaters and an open fireplace in the main living room. The sales particulars, which formed part of the landlord's submission, illustrated this and the tribunal noted that the property was on the market for £1.1million.
29. She did not accept that the gardener put in less than 30 hours a week in the garden as that was what she paid him for. He kept on top of the garden and yard, trimmed the hedge maintained the yew trees and cut the grass.
30. In terms of electricity, she felt that she was making reasonable deductions to reflect the consumption by other users of the electricity. There was an additional meter which monitored the use of the farmyard. She disputed the accusation that the tenants had never seen a bill – they had had a bundle of bills.
31. The tenants were in arrears of over £6,000 for electricity and she had not agreed to the proposal that the revised rent of £1600 pcm should include electricity. On questioning from the tribunal, she said that the monthly cost of electricity for the house was around £500 per month.

32. She felt that the property should be maintained in a good viewable condition and that she should be able to arrange viewings as and when needed with the required notice.
33. In terms of setting the revised rent at £2,500 per month she had taken advice from Kenneally Property Services, her agents, who had provided a valuation in October 2020 at £2,500 per month. The previous tenants had also paid £2,500 per month.
34. In summary, Ms Simms said it was a Grade II listed property and as any property of this kind had limitations. The landlord had previously agreed a concessionary rent and had sought to accommodate the tenants need to self-isolate by arranging video viewings. They were now seeking the market rent for the property.

Determination

35. 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 take into account the present rent and the period of time which that rent has been charged nor does it take into account the percentage increase which the proposed rent represents to the existing rent. In addition, the legislation makes it clear that the Tribunal cannot take into account the personal circumstances of either the landlord or the tenant.
36. The Tribunal assesses a rent for the Property as it is on the day of the hearing disregarding any improvements made by the tenant but taking into account the impact on rental value of any disrepair which is not due to a failure of the tenant to comply with the terms of the tenancy.
37. The tribunal was not assisted by either party providing comparables although it accepts that this is a somewhat unusual property and good comparables are likely to be few. It gave some limited weight to the valuation provided by Kenneally Property Services although this was purely an unsupported opinion of value, and certainly in respect of the written opinion provided to the tribunal, post-dates by some weeks, the section 13 notice.
38. It also notes that a previous tenant had paid £2,500 per month although there was a disagreement between parties as to why previous tenants had taken the property.
39. The tribunal therefore has had to use its own knowledge and expertise to arrive at the market rent of the property assuming that it was in good condition and on terms that are the same (except for rent) as the subject property.

40. On this basis the tribunal believes that the rental value for the property would be in the region of £2300 per calendar month.
41. This then needs adjusting to reflect any difference between the current condition of the property, disregarding the effect of any disrepair or any other defects which were the responsibility of the tenant or his predecessor in title to remedy and also any improvements which the tenant has carried out. It also needs adjusting for any onerous or unusual liabilities which may run with the property.
42. The tribunal has noted the issues around the AGA, which are the responsibility of the landlord to rectify in terms of heating of what are recognised as ancillary rooms, rather than as a means of cooking.
43. It also takes account of the estimated electricity bills of £500 per month (£6,000 per annum) which the landlord has suggested run with occupation of this property.
44. It has made a £150 adjustment to the rental value to reflect the situation with the AGA, the heating and the level of electricity bills as it believes that these would impact on the rent a tenant would be willing to pay for the property. In doing so it arrives at the market rent of the subject property of £2,150 per month.
45. It should be noted that this figure cannot be a simple arithmetical calculation and is not based specifically upon capital cost but is the Tribunal's estimate of the amount by which the rent would have to be reduced to attract a tenant.
46. Section 14(7) of the Housing Act 1988 gives the tribunal discretion to determine the date of the rent where backdating the rent to the beginning of the new period specified in the notice would cause undue hardship to the tenant. The tribunal, having reviewed the submission of the tenants is satisfied that this would be the case and the rent takes effect from **16 December 2020**, the date of this decision.

M Hardman FRICS IRRV(Hons)
Regional Surveyor

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).