



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

Case Reference : **CHI/00LC/MNR/2020/0091**

Property : **62a Victoria Street
Gillingham
Kent
ME7 1EN**

Applicant : **Mr Mark Burgess**

Representative : **None**

Respondent : **Mr Russell**

Representative : **Countrywide Residential Lettings**

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

Tribunal Members : **Mr I R Perry BSc FRICS
Miss C Barton BSc MRICS
Mr J Reichel BSc MRICS**

Date of Inspection : **None. Determined on the papers**

Date of Decision : **3rd February 2021**

DECISION

Summary of Decision

1. On 3rd February 2021 the Tribunal determined a market rent of £560 per month to take effect from 9th January 2021.

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 17th November 2020 The Landlord's Agent served a notice under Section 13(2) of the Housing Act 1988 which proposed a new rent of £585 per month in place of the existing rent of £560 per month to take effect from the 9th January 2021. The notice complied with the legal requirements.
4. On 23rd November 2020 the Tenant applied to the Tribunal under Section 13(4) (a) of the Housing Act 1988.
5. The Coronavirus pandemic and considerations of health have caused a suspension of inspections and of Tribunal hearings in person until further notice.
6. On 30th December 2020 the Tribunal office informed the parties that the Tribunal considered the application was suitable for determination on the papers, without a hearing in accordance with rule 31 of the Tribunal Procedure Rules 2013, unless a party objected to the Tribunal by 13th January 2021.
7. No such objection was received so a Tribunal was arranged for 3rd February 2021.
8. The parties were invited to submit papers to the Tribunal and informed that if the condition of the property was salient to the issues of the property the parties have permission to include photographs and/or video footage in their evidence.

The property

9. From the information given in the papers and available on the internet the property comprises a ground floor flat within a converted terraced house in Gillingham, about 1/4 mile from the centre of the town.
10. The building seems to date from about 100 years ago but was modernised at a later date and converted to provide two flats.

11. The accommodation is described as including a Living Room, Bedroom, Kitchen, Bedroom and Shower Room. There is a shared entrance hall and gardens to front and rear.
12. The accommodation has central-heating, double glazed windows and white goods provided by the Landlord. The Tenant supplies carpets and curtains.

Submissions

13. The Applicant made a submission to the Tribunal with support from a Well Being Navigator from Imago. This was copied to the Landlord's Agent.
14. The Tribunal received a copy internal email from the Landlord's Agents 'Renewals Admin' dated 29th January 2021, apparently sent to other departments within Countrywide and copied to Imago and to the Tribunal.
15. The Applicant states that the property is in a poor state of repair due to perpetual floods from the bathroom of the flat above. He states that the shower door does not close; the sink is not fixed so is unusable; the ceiling appears likely to collapse; doorframes, skirting and doors are rotten; the flooring has been damaged; walls show water damage and the electrics to the Shower Room flicker or do not work which he considers to be a danger.
16. The Applicant further states that he wishes to continue living at the property but asks for the repairs to be carried out so that his home is returned to the same condition as when he first moved in.
17. The original tenancy commenced on 9th February 2013 at a rent of £475 per month.
18. The Tribunal received no evidence from either party of rental values in Gillingham.

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

19. The Tribunal first considered whether it felt able to reasonably and fairly decide this case based on the papers submitted only with no oral hearing. Having read and considered the papers it decided that it could do so.
20. The Tribunal is required to determine the rent at which the subject property might be reasonably 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.
21. Having carefully considered the representations and associated correspondence from the parties and using its own judgement and knowledge of rental values in Gillingham 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 £675 per month.
22. However the property is not in such a condition and certain deductions should be made from this figure. Relying on its own experience the Tribunal decided that a deduction of £15 per month should be made to reflect the Tenant's provision of curtains and floor coverings.
23. From the evidence provided by the Tenants the Tribunal decided that a further deduction of £100 per month should be made to reflect the condition of the property caused by the repeated floods from the flat above.
24. Accordingly the Tribunal decided that the new rent should be fixed at £560 per month.
25. The Tribunal received no indication that the starting date for the new rent specified in the Landlord's notice would cause the Tenant any undue hardship.

Determination

26. 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 £560 per month.
27. The Tribunal directed that the new rent of £560 per month should take effect from 9th January 2021 this being the date specified in the original notice.

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. Where possible you should send your application for permission to appeal by email to rpsouthern@justice.gov.uk as this will enable the First-tier Tribunal Regional office to deal with it more efficiently.
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