



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

Case Reference : **CHI/18UB/MNR/2021/0066**

Property : **Bridge Cottage, Mill Street, Sidmouth,
Devon EX10 8DW.**

Applicant : **Mr T Diamantis (Tenant)**

Respondent : **Dr M Ervine (Landlord)**

Date of Application : **Received 21st June 2021**

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

Tribunal : **Mr R T Brown FRICS Chairman
Mr M C Woodrow MRICS
Mr M J F Donaldson FRICS MCI Arb MAE**

Date : **24th September 2021**

REASONS FOR DECISION

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Background

1. The Tribunal gave formal notice of its decision by a Notice dated 24th September 2021 in the sum of **£800.00 per calendar month**.
2. By an application received on 21st June 2021, the tenant of the above property referred a notice of increase in rent served by the landlord under section 13 of the Housing Act 1988 to the Tribunal.
3. The landlord's notice dated the 1st June 2021 proposed a rent of **£820.00 pcm** with effect from 6th July 2021, in place of the current rent of £728.00 pcm.
4. The tenancy is an assured shorthold tenancy. The tenancy agreement is in common form and commenced on 1st June 2020. The tenancy is subject to the Landlord's repairing obligations defined in Section 11 the Landlord and Tenant Act 1985. Rent is due on the 6th day of the month.

Property and Inspection

5. Following the Directions dated 13th August 2021 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 on a residential road close to the centre of Sidmouth adjacent to the River Sid. Local amenities are available.
8. The property comprises an attached Grade II listed cottage accessed via a shared driveway.
9. The accommodation comprises: 1 reception room, kitchen, 1 double bedroom, 1 small single bedroom with through access to bathroom. Outside: walled garden and two off-street parking spaces.
10. Carpets, curtains in one room and cooker are included in the Tenancy.
11. The Tribunal is informed that all mains services are connected. There is gas central heating and partial double glazing.

Hearing

12. A hearing was not requested.

Documents supplied to and considered by the Tribunal

13. Tribunal Directions dated 13th August 2021.
14. Landlord: Tribunal Reply Form and letter to Tribunal dated 30th July 2021.
15. Tenant: Application Form, Notice of Increase, Tenancy agreement and Reply Form.

Landlord's Representations (summarised):

16. The Landlord says in the Reply Form:

- a) A new boiler installed in 2018.
- b) New bathroom 4 years ago.
- c) Kitchen dated but fitted with suitable pine units.
- d) New carpets in sitting room (2020) and stairs and bedrooms (2018).
- e) Sidmouth is an expensive town to rent in. Bridge Cottage is minutes walk to High Street and beach with good bus links. Located on the River Sid.
- f) A similar terraced property in the same road is currently available asking £950.00 pcm but there is no garden, no parking and fronts a busy road with double yellow lines.

17. In the letter of 30th July 2021, the Landlord says:

The property has a large walled garden, two private parking spaces within the grounds, gated cctv and adds that an agent values these parking spaces at £50 each per month. There is also a brick former workshop used by the tenant but not forming part of the tenancy.

Tenant's Representations (summarised)

18. In the Reply Form the tenant says:

- a) The bathroom is unfinished and in need of maintenance.
- b) Bedrooms need repairs and decorating.
- c) Kitchen in need of repair.
- d) Railway Station is 9.5 miles away.
- e) There are no comparables available. The Landlord's comparable is a different number of rooms, better quality and condition.
- f) A local estate agent states Bridge Cottage would achieve £750.00 pcm if it were in a good state of repair.

19. In his representations, the Tenant says:

- a) The Landlord has been unwilling to carry out repairs. Some repairs were undertaken after the local authority became involved.
- b) The bath and shower require resealing. The tenant fitted two towel rails, a mirror and toilet roll holder.

c) At the start of the tenancy there were only 1 set of curtains in the living room. Due to their age he says he has stored them and since installed curtains to all but one window.

d) The only access to the cottage is across the neighbours garden.

e) Evidence of water damage to walls and ceilings has been brought to the Landlord's attention.

f) Loose skirting boards and insufficient draught proofing around the front door.

g) He has not seen a copy of the full EPC for the property.

h) East Devon District Council inspected the property in May 2021 and issued a schedule itemising the hazards and works required under the Housing Health and Safety Rating System dated 7th June 2021. The Notice identified various repairs under the following headings:

Damp and mould growth: Extractor hood over cooker removed, some windows painted shut, kitchen door removed.

Fire: No kitchen door in place to contain smoke, no heat detector in kitchen.

Water supply: Single pipe serves several properties. These homes not fully occupied when hot water used in one of them the shower water gets hotter.

i) An email from the Landlord dated 1st June 2021 indicates they will not increase the rent if the Tenant provides a vacation date. Various incorrect Section 21 Notices have been served.

j) The door to the second bedroom cannot be closed if there is a bed in the room.

k) Various undated photographs of the property are included indicating: Loose skirtings, damp ceiling, flaking/peeling paintwork, poor bath seal, gap between bathroom floor and wall tiles, incomplete finish to wall cladding.

The Tribunal's Deliberations

20. 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 or Landlord are not relevant to this issue.
21. The Tribunal found as a matter of fact that the notice of rent increase was a Notice under section 13 as prescribed by Statute.
22. The Tribunal checked the National Energy Performance Register and noted that the subject property has a certificate registering the property at E expiring on 3rd July 2024. The legal minimum standard for letting a property is Rating E.

23. Based on the knowledge of its members, the Tribunal finds that the market for this type of property is very sensitive to condition and inventory.
24. The Tribunal, acting as an expert tribunal, determined what rent the landlord could reasonably be expected to obtain for the subject property in the open market if it were let today in the condition and subject to the terms of such a tenancy that is considered usual for such an open market letting. It did this by having regard to the evidence supplied by the parties and the Tribunal's own general knowledge of market rent levels. The Tribunal noted the parties comments on the comparable and the accommodation provided. Having done so, it concluded that a likely market rent for a similar modernised property in fair condition with central heating, modern bathroom and kitchen facilities, floor coverings, curtains, all white goods and an EPC Rating above F would be **£950.00 pcm.**
25. The Tribunal, after careful consideration of the current market conditions and the apparent condition of the subject property being below the standard that would usually be expected for a property of this type, makes deductions as follows to reflect these matters:
 - a) Lack of modern Kitchen and Bathroom - £40.00 pcm.
 - b) Access to the bathroom through the 2nd bedroom - £50.00 pcm.
 - c) Limited curtains and white goods - £25.00 pcm.
 - d) Issues raised within the Housing Health and Safety Rating System as detailed in the notification from East Devon District Council dated 7th June 2021 and apparent poor decoration- £35.00 pcm.A deduction of £150.00 pcm.
26. Accordingly the Tribunal determined that the market rent for the subject property is **£800.00 pcm.**
27. The rent will take effect from 6th July 2021 being the date specified by the landlord in the notice of increase.

Relevant Law

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

RIGHTS OF APPEAL

1. A person wishing to appeal this decision (on a point of law only) 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.