



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

**Case Reference** : **CHI/00MR/MNR/2021/0147**

**Property** : **Flat 1  
31 Granada Road  
Southsea  
Hampshire  
PO4 0RD**

**Tenant** : **Ms N J Feraru**

**Representative** : **None**

**Landlord** : **Mr S & Mrs B Anarfi**

**Representative** : **Eric Robinson Solicitors**

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

**Tribunal Members** : **Mr I R Perry BSc FRICS  
Mr P E Smith BSc FRICS  
Mr M C Woodrow MRICS**

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

**Date of Decision** : **3<sup>rd</sup> March 2022**

---

**DECISION**

---

## **Summary of Decision**

1. On 3<sup>rd</sup> March 2022 the Tribunal determined a market rent of £850 per month to take effect from 25<sup>th</sup> December 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 2<sup>nd</sup> November 2021 the Landlord's Agent served a notice under Section 13(2) of the Housing Act 1988 which proposed a new rent of £850 per month in place of the existing rent of £650 per month to take effect from 25<sup>th</sup> December 2021. The notice complied with the legal requirements.
4. On 23<sup>rd</sup> December 2021 the Tribunal received an application from the Tenant 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 Tribunal hearings in person until further notice.
6. The Tribunal issued directions on 20<sup>th</sup> January 2022 informing the parties that, unless either party objected, the Tribunal intended to determine the rent based on written representations. The parties were invited to make submissions which could include photographs or videos.
7. Following an application by the Tenant, a second set of directions were issued on 17<sup>th</sup> February 2022 which extended the period in which submissions should be made to the Tribunal to a new date of 25<sup>th</sup> February 2022.
8. Both parties submitted detailed papers by the specified dates setting out their respective cases. The papers were also copied to the other party.
9. Neither party objected to the matter being determined without an oral hearing, so the Tribunal determined the case on 3<sup>rd</sup> March 2022 based on the written representations received.

## **The Property**

10. Within the papers the property is described by one party as a ground floor flat and as a basement flat. It was noted that on the local Portsmouth planning portal the building was formerly the Languard Hotel where the plans refer to this as a garden flat. From the information available on the internet the property appears to be what a surveyor would describe as a garden flat. The conversion took place in 2000.

11. The accommodation is said to comprise a Living Room, Kitchen, two Bedrooms, Bathroom and Garden. There is off-road parking for two cars, central-heating and double-glazed windows.
12. The property is situated in a residential area about 200 metres from Southsea beach. There is a good range of general amenities within Southsea.

### **Submissions**

13. The initial tenancy began on 24<sup>th</sup> November 2013 at a rent of £650 per month. The Landlord states that the property has carpets and curtains and that the only white goods provided is a cooker. The Tenant states that the property has a Washing Machine, Fridge and Cooker all provided.
14. The Landlord provides evidence of comparable properties to let in the general area and opinions of value from local agents in a range of £900 to £1,200 per month.
15. The Tenant provided a detailed history of her time living at the property from which it is apparent that there has been an unhappy relationship between the Landlord and Tenant.
16. With her submission the Tenant also included a number of photographs showing the internal condition of the property, in particular the photographs show evidence of black mould growth, water penetration beneath an external door and worn carpets.

### **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**

17. 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.
18. The Tribunal's sole function is required to determine the rent at which the subject property might reasonably be expected to be let in the open market at today's date by a willing Landlord under an assured tenancy.

The personal circumstances of the Tenant and the relationship between Landlord and Tenant are not part of the issue.

19. Having carefully considered the representations from the parties and associated correspondence, and using its own judgement and knowledge of rental values in Southsea and Portsmouth, 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 £1,000 per month.
20. However, the property is not let in such condition as to command this full rent and a number of adjustments should be made to reflect this. Using its experience the Tribunal decided that the following adjustments should be made:

Excessive damp and mould growth	£100
Worn carpets	£20
Dated Kitchen	£20
Dated Bathroom	£10
<b>TOTAL</b>	<b>£150</b>

21. 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**

22. 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 £850 per month.
23. The Tribunal directed that the new rent of £850 per month should take effect from 25<sup>th</sup> December 2021 this being the date 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](mailto: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.