



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

Case reference : **CAM/22UN/MNR/2021/0071**

HMCTS code : **P: PAPERREMOTE**

Property : **266b High Street Harwich Essex
CO12 3PA**

Applicant : **Richard Traynor**

Respondent : **William H Brown**

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

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

Date of decision : **17 March 2022**

DECISION

Covid-19 pandemic: description of hearing

- A. This has been a remote hearing on the papers which the parties are taken to have consented to, as explained below. The form of remote hearing was P:PAPERREMOTE. A face-to-face hearing was not held because all issues could be determined on paper.

Decision:

1. The Tribunal determined a rent of **£575** per calendar month to take effect from 30 December 2021.

Reasons

Background

2. The Landlord by a notice in the prescribed form dated 23 November 2021 proposed a new 'rent' of £625 per calendar month to be effective from 30 December 2021. On 16 December 2021 the tenant referred the Notice to the Tribunal. This was in lieu of the previous rent of £575 per month.
3. 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.
4. 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.
5. The determination would take place based on the submissions from both parties unless either party requested a hearing. Evidence was submitted by the landlord or the tenant. There was no request for a hearing.
6. At the inspection the representative for the landlord said that they had not received the directions and therefore had not responded to the requirement to complete the reply form and to provide any further comments that they would wish the tribunal to take into consideration.
7. The tribunal allowed them a short period of time to provide their submission and for the tenant to make any response.

The Property

8. The tribunal inspected the property on 14 February 2022. The tenant and a representative for the landlord were present at the inspection.
9. The property is a second floor, two bedroomed flat above commercial property. Access is from the back of the block via an external metal staircase.
10. The accommodation comprises a living room, kitchen, two bedrooms and bathroom.

11. There is off-road parking but no garden.
12. Heating is via wall mounted electric heaters, some of which did not appear to have functioning time switches.
13. There is double glazing which was installed by the landlord but the seals in most of the windows are blown allowing moisture to enter between the panes and resulting in misting.
14. There is evidence of damp around the ceiling coving in both bedrooms. The tenant reported that he tried to ensure that mould did not grow and that the trickle vents fitted by the landlord had helped to some extent.
15. The cooker, carpets and curtains were provided by the landlord and the washing machine and fridge/freezer by the tenant
16. The kitchen is dated with units which are past their best. The bathroom is also dated with a basic white suite.

The Tenancy

17. The Tenancy commenced as a contractual Assured Shorthold Tenancy for a fixed term of 6 months from 30 June 2019. A copy of the agreement dated 30 June 2019 was provided. From 30 December 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

18. 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
19. 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.

Representation – Landlord

- 20. The landlord said that all the rooms were in good condition.
- 21. They provided a Rightmove Best Price Guide based on a search of properties within 0.5 miles of the postcode, marketed between 17 November 2019 and 17 February 2022. This comprised some 17 2 bedroomed flats/apartments.
- 22. The landlord did not indicate which they regarded as the best or even likely comparables
- 23. Rents for properties let in 2021 and 2022 ranged from £620-£675 per calendar month.

Representations – Tenant

- 24. The tenant confirmed the accommodation details provided by the landlord although correctly stated that there was no central heating – that heating was provided via electric wall heaters.
- 25. He said that he had provided the washing machine and the fridge freezer.
- 26. In response to the submissions from the landlord he said that the rooms were not in good condition. He maintained them but there were issues as pointed out during the inspection.
- 27. He also said that the rental comparables provided by the landlord were predominantly new build flats with better facilities like central heating, systems that work and windows in (good) order.

Determination

- 28. 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.
- 29. In addition, the legislation makes it clear that the Tribunal cannot take into account the personal circumstances of either the landlord or the tenant.

30. 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.
31. The tribunal has reviewed the comparables provided by the landlord.
32. Most were within purpose-built blocks or converted houses. It was not possible to ascertain if, of the few with only an internal photograph, any were over commercial premises with external access but the tribunal is assuming not.
33. Nor was it clear whether those with let agreed (14) showed the asking rent or the rent achieved.
34. Having regard to the comparables and applying its profession judgement and expertise the tribunal is of the opinion that the open market rental value for a property in this location with external metal staircase access is likely to be around £610 per month. Making an adjustment for the issues detailed above (dated and basic kitchen and bathroom, electric wall heaters, blown glazing panels, damp staining) the tribunal determines that the rental value of the property should be adjusted by a deduction of £35/month.
35. On this basis the tribunal believes that the rental value for the property would be in the region of **£575 per month** and makes its determination on this basis.

Mary 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).