



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

**Case Reference** : **CHI/00HH/MNR/2021/0137**

**Property** : **76a Avenue Road  
Torquay  
Devon  
TQ2 5LF**

**Landlord** : **Mr F Dusetti**

**Representative** : **Absolute Sales & Lettings**

**Tenant** : **Mrs L C Pierce**

**Representative** : **None**

**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 M J F Donaldson FRICS MCI Arb  
MAE  
Mr M C Woodrow MRICS**

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

**Date of Decision** : **7<sup>th</sup> April 2022**

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**DECISION**

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## **Summary of Decision**

1. On 7<sup>th</sup> April 2022 the Tribunal determined a market rent of £550 per month to take effect from 10<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 25<sup>th</sup> October 2021 the Landlord served a notice under Section 13(2) of the Housing Act 1988 which proposed a new rent of £600 per month in place of the existing rent of £495 per month, to take effect from 10<sup>th</sup> December 2021. The notice complied with the legal requirements.
4. The Tribunal received an application dated 14<sup>th</sup> November 2021 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 14<sup>th</sup> February 2022 informing the parties that the Tribunal intended to determine the rent based on written representations and that the Tribunal would seek to view the property on the internet. The parties were invited to make submissions which could include photographs or videos.
7. The Tenant submitted papers which had been copied to the Landlord.
8. As stated in the Directions, as no objection was received from either party, the Tribunal determined the case on 7<sup>th</sup> April 2022 without an oral hearing.

## **The Property**

9. From the information given in the papers and available on the internet the property comprises a ground floor flat in a converted end terraced property of three units. It is situated on a busy road within a mainly residential area approximately 1/2 mile from the seafront.
10. There are a number of local shops within reasonable distance and a wider range of amenities within the Torbay area.
11. The accommodation is described as a Living Room, Kitchen, two Bedrooms and a Bathroom with WC. There is off-road parking, a small Courtyard, gas-fired central heating, double glazed windows and was let with fitted carpets and curtains. The current Energy Performance Certificate rating is 'C'.

**Submissions**

12. The initial tenancy began on 10<sup>th</sup> November 2011. The present rent of £495 per month is shown in the tenancy agreement dated 10<sup>th</sup> August 2014 supplied to the Tribunal.
13. The Tenant states that a cooker is provided but no fridge or washing machine, and that the carpets are worn. She also refers to several repair issues including damp, defects to the roof and rainwater goods and poor kitchen units.
14. The Tenant also refers to problems with the electrical installation and submitted a Domestic Electrical Installation Condition report based on an inspection dated 24<sup>th</sup> August 2021. This includes several recommendations, one of which is described as potentially dangerous and requiring Urgent remedial action.
15. An invoice dated 3<sup>rd</sup> November 2021 is submitted which states that “Damp seems to be the cause of the readings (low insulation resistance readings to circuits)”.
16. No submissions or observations were received from either the Landlord or his Agent.

**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 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 are not relevant to this issue.
- 19. Having carefully considered the representations from the parties and associated correspondence and using its own judgment and knowledge of rental values in the Torbay area, 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 £725 per month.
- 20. However, the property is not in a condition that would command such a rent and adjustments need to be made to this 'open market' rent to take account of the Tenant's provision of some white goods, general

dampness and disrepair, worn carpets and the condition of the electrical installation.

21. Using its experience, the Tribunal decided that the following adjustments per month should be made:

Tenant's provision of some white goods	£20
Worn carpets	£30
Dampness and general disrepair as above	£95
Shortcomings to electrical installation	£30
	—————
TOTAL	£175

22. 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**

23. 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 £550 per month.
24. The Tribunal directed that the new rent of £550 per month should take effect from 10<sup>th</sup> December 2021, this being the date specified in the 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.