



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

Case Reference : **CHI/00HY/MNR/2022/0014**

Property : **11 Short Street
Melksham
Wiltshire
SN12 7EY**

Landlord : **P & M McDiarmid**

Representative : **Kavanaghs Residential Lettings**

Tenant : **Mr D Johnson and Ms K
Ravenscroft**

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 : **7th April 2022**

DECISION

Summary of Decision

1. On 7th April 2022 the Tribunal determined a market rent of £850 per month to take effect from 11th March 2022.

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 25th January 2022 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 11th March 2022. The notice complied with the legal requirements.
4. On 14th February 2022 the Tenants made an application 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 Tribunal hearings in person until further notice.
6. The Tribunal issued directions on 2nd March 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. Both parties submitted detailed papers by the specified dates very clearly setting out their respective cases. The papers were also copied to the other party.
8. Neither party objected to the matter being determined without an oral hearing, so the Tribunal determined the case on 7th April 2022 based on the written representations received.

The Property

9. From the information given in the papers and available on the internet, the property comprises a semi-detached house within a cul-de-sac of similar properties on the north-east side of Melksham, about one mile from the Town Centre. There is a full range of standard amenities within the town.
10. The house is of brick or block construction beneath a pitched slate roof.
11. The accommodation comprises a Living Room and Kitchen/Diner at ground floor level with two double Bedrooms, a single Bedroom and a Bathroom with WC at first floor level. Outside there are gardens to the front and rear, a Shed and a Garage.

12. The property has gas-fired central heating, double-glazed windows and has a 'D' rated Energy Performance Certificate.
13. The tenancy commenced 11th June 2009 at an initial rent of £550 per month.

Submissions

14. The Landlord's agent says that carpets and blinds are included. Regular inspections have been made by the Agent, the most recent in January 2022, which describe the property as being maintained in "a nice and tidy manner throughout" by the Tenants though acknowledging in September 2021 that the "property is starting to show signs of wear and tear throughout".
15. The Landlord's Agent also supplied details of properties to rent in the area with asking rentals between £895 and £1,100 per month and photographs of the property taken in 2009, prior to the existing tenancy. In addition, the Agent provided a computer log of repair expenditure during the tenancy which included invoices for gas safety inspections.
16. The Tenants submission states that no curtains were supplied, the cooker is not working properly and the garage cannot be used due to a raised part of the driveway.
17. The Tenants also state that the gas back boiler does not always fully heat the house and refer to a list of repair issues, some of which are due to wear and tear. This list includes defective catches to internal doors, there are gaps in double-glazed windows, worn worktops in kitchen, a dip in floor between Lounge and Hall, faulty cooker, gas fire in Lounge which cannot be replaced and a defective letterbox.

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

18. 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.

19. 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.
20. Having carefully considered the representations from the parties and associated correspondence and using its own judgement and knowledge of rental values in Melksham and the wider area of Wiltshire generally, 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 £900 per month.
21. The Tribunal decided that a number of reductions to this rent should be made to reflect the issues raised by the Tenant.
22. Using its experience, the Tribunal decided that the following adjustments should be made:

Tenant's provision of fridge	£10
General wear and tear	£20
Worn carpets	£20
	—————
TOTAL	£50

23. 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

24. 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.
25. The Tribunal directed that the new rent of £850 per month should take effect from 11th March 2022, this being the date within the original notice of increase.

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.