



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

**Case Reference** : **CHI/18UD/MNR/2022/0005**

**Property** : **Flat 1, 120 Westexe South, Tiverton, Devon  
EX16 5DT**

**Applicant** : **Ms O Bawden and Mr P Callanan  
(Tenants)**

**Respondent** : **Mrs M Wright (Landlord)**

**Date of Application** : **23rd January 2022**

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

**Tribunal** : **Mr R T Brown FRICS Chairman  
Mr J Reichel BSc MRICS  
Mr S Hodges MRICS**

**Date** : **19<sup>th</sup> April 2022**

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**REASONS FOR DECISION**

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### ***Background***

1. The Tribunal gave formal notice of its decision by a Notice dated 19<sup>th</sup> April 2022 that the rent will be **£650.00 per calendar month (pcm)** with effect from 6<sup>th</sup> February 2022.
2. By an application dated 23<sup>rd</sup> January 2022, 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 14<sup>th</sup> November 2021 proposed a rent of **£670.00 pcm** with effect from 21<sup>st</sup> February 2022, in place of the current rent of £600.00 pcm.
4. The tenancy is an assured shorthold tenancy. The tenancy agreement is in common form and is dated 24<sup>th</sup> September 2021 although there is reference to the original agreement commencing in March 2020. The tenancy is subject to the Landlord's repairing obligations defined in Section 11 the Landlord and Tenant Act 1985.

### ***Property and Inspection***

5. Following the Directions dated 9<sup>th</sup> March 2022 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 in a mainly residential area at a roundabout on the main A3126 north to south through Tiverton.
8. The property comprises a double glazed Ground Floor Flat in a converted house.
9. The accommodation comprises: Living Room, kitchen, bathroom/WC and 2 bedrooms. Outside: Communal garden and off-street parking.
10. The property is let part furnished with carpets, curtains, cooker and washing machine.
11. The Tribunal assumed that all mains services are connected.
12. The Tribunal noted:
  - a) Heating was via electric panel heaters.

### ***Documents supplied to and considered by the Tribunal***

13. Tribunal Directions dated 9<sup>th</sup> March 2022.
14. Landlord: Tribunal Reply Form.

15. Tenant: Application Reply Forms, Inventory, Notice of Increase and Tenancy Agreement.

***Landlord's Representations (summarised):***

16. The Landlord says in the Reply Form and attachments:
- a) Digital photographs of the flat are included showing the condition of the flat in March 2020 before the current tenants took up occupation.
  - b) The garden fence was renewed in 2020 and the garden tidied up.
  - c) The property was converted into 3 flats in 2008 and each flat was: replastered, rewired, soundproofed, decorated with new kitchen and bathroom fittings.
  - d) A report from Red Panda stating that the company had cleaned the flat prior to the current tenants taking up occupation. Red Panda visited the property on more than one occasion to investigate blocked drains which were not in fact blocked.
  - e) A subsequent report from Red Panda stating that after being called to attend a radiator falling off the wall that it did in fact look more like it had been pulled away.
  - f) Mr Thorne reported that he was called out to attend at the property due to blocked drains and found that they were blocked with moisturising wipes which do not decompose.
  - g) The shower was replaced a few months ago.
17. The property is short walk from Tiverton town centre where there is a bus to the railway station.
18. The Landlord has not found a comparable 2 bedroom flat with direct access to the garden that also allows dogs. Two bedroom flats without garden or allowing dogs let for between £620.00 and £695.00 pcm.
19. A smaller 2 bedroom flat in Perreyman Square is currently advertised at £650.00 pcm. It looks smaller than Flat 1. There is also another 2 bedroom flat in Westex South with no garden or pets advertised for £650.00 pcm.
20. The 'Openrent' calculator shows that a 2 bedroom flat without garden or pets is £690.00 pcm. If offering this flat the Landlord would hope to achieve £720.00 pcm.
21. £670.00 is a very fair rent.

***Tenant's Representations (summarised)***

22. The Tenant says in the Application and Reply Forms:
- a) Defects include: Ongoing issues with the plumbing including occasional lack of hot water, faulty shower and waste backing up into shower. Radiator falling off wall.
  - b) Tenants repaired: curtain rail, removed ants, plugged holes around windows.

- c) The flat is in need of an upgrade: no power to shaver socket, sockets in kitchen do not work, kitchen units need repair. Bathroom has no window and the extractor is somewhat dated leading to a build up of mould.
  - d) The flat is located outside a main roundabout that leads to Exeter with traffic flying by all night.
23. Undated photographs are included.
24. The tenants had viewed a 3 bedroom house in better condition and offered for £700.00 pcm. Other smaller 2/3 bedroom properties have been valued closer to £630.00/650.00 pcm. Properties which seemed 'tired' were almost always under £620.00 pcm.

### ***The Tribunal's Deliberations***

25. The Tribunal found as a matter of fact that the notice was a Notice under section 13 as prescribed by Statute.
26. 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.
27. The Tribunal checked the National Energy Performance Register and noted that the subject property has a certificate registering the property at D expiring on 20th November 2026. The legal minimum standard for letting a property is rating E.
28. 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.
29. 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. Having done so, it concluded that such a likely market rent for a similar modernised property in fair condition with modern central heating, modern bathroom and kitchen facilities, floor coverings, cooker, washing machine and an EPC Rating of E or above would be **£700.00 pcm.**
30. The Tribunal, after careful consideration of the current market conditions and the apparent condition of the subject property determined to make deductions in respect of issues identified:
- a) Electric heaters as opposed to full central heating: £15.00
  - b) Location on main roundabout: £25.00
  - c) Partial white goods: £10.00

Total deduction £50.00 pcm

31. Accordingly, the Tribunal determined that the market rent for the subject property is **£650.00 pcm.**
32. The rent will take effect from 21st February 2022 being the date specified by the landlord in the notice of increase.

***Relevant Law***

33. Sections 13 and 14 of the Housing Act 1988.
34. 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](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.