



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

Case Reference : **CHI/40UF/MNR/2022/0012**

Property : **Annexe, The Maltings, Minehead, Somerset
TA24 8HJ**

Applicant : **S Bamford (Tenants)**

Respondent : **M S Clifford c/o Webbers Property
Management (Landlord)**

Date of Application : **8th February 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 : **19th April 2022**

REASONS FOR DECISION

Background

1. The Tribunal gave formal notice of its decision by a Notice dated 19th April 2022 that the rent will be **£600.00 per calendar month (pcm)** with effect from 1st March 2022.
2. By an application dated 8th February 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 27th January 2022 proposed a rent of **£675.00 pcm** with effect from 1st March 2022, in place of the current rent of £625.00 pcm.
4. The tenancy is an assured shorthold tenancy. The tenancy agreement is in common form and is dated 12th January 2013. 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 18th 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 very rural area to the south of Bossington village.
8. The property comprises a centrally heated First Floor Flat located over disused stabling.
9. The accommodation comprises: Living area/kitchen, bathroom/WC and 1 bedroom. Outside: yard and parking. Including paddock nearby.
10. The property is let part furnished with carpets, cooker and fridge.
11. The Tribunal assumed that all mains services except gas are connected.

Documents supplied to and considered by the Tribunal

12. Tribunal Directions dated 18th March 2022.
13. Landlord: Tribunal Reply Form.
14. Tenant: Application Reply Forms, Inventory, Notice of Increase and Tenancy Agreement.

Landlord's Agents Representations (summarised):

15. The Landlord says in the Reply Form and attachments:
 - a) We understand the wood burner was installed by the Landlord but unit paid for by the tenant.

- b) Autumn 2021: Installation of new high heat retention storage heaters and panel heater in bathroom.
 - c) The property is in generally satisfactory condition with some routine repairs in hand: Leak under bedroom window, small plumbing leak under bath.
 - d) Kitchen and bathroom fittings are serviceable and were installed when the property was converted in the 1990s.
 - e) The valuation reflects the EPC rating of F for which the landlord has registered an exemption.
 - f) The property incorporates a paddock and loose boxes. The value of those items is considered separately.
16. Market Rent: The agent places the current rental value at £700.00 pcm although the Landlord only seeks £675.00 pcm.
17. Comparables provided are:
- a) Bay Tree Cottage, Quay West, Minehead TA24 5UN. 1 bedroom cottage yard no parking let June 2021 £550.00 pcm.
 - b) Rose Cottage, Timberscombe, Minehead TA24 7TG: 1 bedroom cottage garden no parking smaller. Available asking £595.00 pcm (previously let at £550.00 pcm).
 - c) Flat 5, 22 Townsend Road, Minehead TA24. 1 bedroom first floor flat no garden or parking. Let agreed at £600.00 pcm.
18. The paddock and loosebox are valued separately at £100.00 pcm which is considered conservative when the cost of a shared field can be in excess of £30.00 per week.
19. Undated photographs are included.

Tenant's Representations (summarised)

20. The Tenant says in the Application, Reply Forms and attachments:
- a) Chimney installation replaced in 2017.
 - b) Tenant provided woodburning stove to replace existing stove which was unsafe to use.
 - c) Night Storage heaters installed in September 2021 conferred no improvement to flat's warmth.
 - d) New neighbour carried out improvements to walls and buildings in the yard in 2020/21.
 - e) The EPC rating was increased to F in October 2021 following the installation of night storage heaters nothing was done however to reduce the heat loss. This installation has not improved the warmth in the flat.
 - f) There appears to be no roof insulation or underfloor insulation above the basement area (not part of the Tenancy) which is damp and has badly fitting doors.
 - g) The carpets are old and may date back to the conversion in the 1990s. They are frayed and, in the bathroom, constantly damp in cold weather.
 - h) There is only one means of access and egress.
 - i) The kitchen units are probably as old as the carpets and have limited storage. The ventilator fan does not work. Electrical sockets are old.

- j) Bathroom is always colder than the rest of the flat. The fittings show signs of age, damaged areas have been painted over, shower bracket broken.
 - k) The windows are in poor repair and difficult to open, only the bedroom window is double glazed.
 - l) The floor inside the front door gets wet from the window above when it rains.
 - m) The front door is thin planks and requires a curtain to reduce the draft.
 - n) The roof lights cannot be accessed without a ladder for opening and cleaning purposes.
 - o) The Tack room below the flat is very damp and there is no visible insulation between the ceiling of the Tack room and the floor of the flat. The washing machine and freezer are located in the basement.
 - p) Upper basement is used to store wood and is in poor condition and often infested with vermin.
 - q) The buildings surrounding the yard are in poor condition and the yard is poorly concreted over.
 - r) The roof slates are showing signs of lifting at their lower edges.
 - s) The paddock is poorly fenced.
21. The flat is located in a very rural location which requires own transport.
 22. Photographs are included showing the condition of the flat in December 2019, 2021 and January, April 2022.
 23. The tenant has not been able to find any comparable evidence. The agent's suggestion that the paddock and loosebox are worth £100.00 is unrealistic as neither are in good condition.
 24. The photographs taken by the agent were taken without the tenant's permission or knowledge. Further the suggestion that the lawns 'in good seasonal order' is unwarranted – there are no lawns.
 25. The rent was increased from £595.00 to £625.00 in 2018 and the Tenant requests the Tribunals decision takes effect from the date of the decision as backdating would put me extreme hardship as the Tenant is on pension credit.

The Tribunal's Deliberations

26. The Tribunal found as a matter of fact that the notice was a Notice under section 13 as prescribed by Statute.
27. 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.
28. The Tribunal checked the National Energy Performance Register and noted that the subject property has a certificate registering the property at F expiring on 6th November 2031. The legal minimum standard for letting a property is rating E.
29. 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.

30. 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. After careful consideration the Tribunal concluded that the Landlord's evidence of both the condition of the property and the achievable rent is optimistic. In particular the Tribunal notes:
- a) Any exemption from the EPC regulations does mean that the property is adequately heated or insulated.
 - b) The inclusion of the paddock/loosebox has some value however the evidence of the condition of the grass and looseboxes is insufficiently detailed for the Tribunal to place more than a nominal value as an addition to a 1 bedroom flat. In any event the paddock is some distance away from the flat. The demand for such combined accommodation must by its very nature be limited.
 - c) Apart from the installation of new night storage (off peak) heaters little improvement appears to have been carried out to the property since its original conversion in 1990's. The installation has not been thought through to addressing the fundamental issue of lack of insulation and damp in a barn converted to living accommodation 30 years ago.
 - d) Having looked at the photographs of the agent's comparables it is evident that these properties are 'ready to let' in the modern market whereas the subject property is not and requires extensive improvement to bring it up to the standard required by current legislation and expected by the market.
31. 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. In addition, the Tribunal took account of the very rural location and limited public transport and concluded that the market rent would be **£600.00 pcm**. A nominal addition of £50.00 is made for the paddock making a total of **£650.00 pcm**
32. 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) Low EPC reflecting the electric central heating, inadequate insulation, lack of double glazing and associated increased running costs: £15.00.
 - b) Lack of modernisation since conversion and associated disrepair including damp dated kitchen and bathroom facilities: £30.00
 - c) Tenant's woodburner: £5.00
- Total deduction £50.00 pcm
33. Accordingly, the Tribunal determined that the market rent for the subject property is **£600.00 pcm**.

34. The rent will take effect from 1st March 2022 being the date specified by the landlord in the notice of increase.

Relevant Law

35. Sections 13 and 14 of the Housing Act 1988.
36. 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 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.