



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

Case reference : **CHI/24UE/MNR/2022/0015**

Property : **38 North Wallington, Fareham, Hampshire
PO16 8SW**

HMCTS code : **P:PAPEREMOTE**

Applicant : **Ms Lynda Hudson**

Representative : **None**

Respondent : **Mr Dereck Priddy**

Representative : **Ashbourne Estate Agents**

Type of application : **Determination of a Market Rent
Sections 13 & 14 of the Housing Act 1988**

Tribunal member(s) : **Mrs J Coupe FRICS
Mr M. J. F. Donaldson FRICS MCI Arb MAE
Mr J Reichel BSc MRICS**

**Date of determination
and venue** : **21 April 2022 virtual hearing on the papers**

Date of decision : **9 May 2022**

DECISION

Covid-19 pandemic: Description of hearing

This has been a remote hearing on the papers which has been consented to by the parties. The form of remote hearing was P:PAPERREMOTE. A face-to-face hearing was not held because it was not practicable and all issues could be determined in a remote hearing on papers. The documents that the Tribunal were referred to are in an electronic bundle, the contents of which have been noted. The order made is described below.

Decision of the Tribunal

On 9 May 2022 the Tribunal determined a market rent of £701.25 per calendar month to take effect from 1 March 2022.

Background

1. By way of an application received on the 21 February 2022 the Applicant, the Tenant of the Property, referred to the Tribunal an application (the application) referring a notice of increase in rent (the Notice) by the Landlord of the property under Section 13 of the Housing Act 1988 (the Act).
2. The Notice is dated 28 January 2022 and proposed a new rent of £750.00 per calendar month instead of the existing rent of £474.99 per calendar month, to take effect from 1 March 2022.
3. The date the tenancy commenced is stated on the application form as being on 1 September 2003 and is an Assured Shorthold Tenancy. The rent was understood to be £700.00 per month at the commencement of the tenancy although, in 2009 this was reduced to £500.00 per month and shortly after, reduced again to £474.99 per month.
4. On 8 March 2022 the Tribunal issued Directions advising the parties that it considered the matter suitable for determination on papers unless either party objected, in writing, within 7 days. No such objections were received. The parties were advised that no inspection would be undertaken.
5. The Directions required the Landlord and Tenant to submit their completed statements by 22 March 2022 (Landlord) and 5 April 2022 (Tenant).
6. The Tribunal reviewed the parties submissions and determined that it could fairly and reasonably proceed to a decision on the papers.
7. The matter was determined having regard to the evidence contained in the submissions and application.

Law

8. In accordance with the terms of Section 14 of the Act the Tribunal are required to determine the rent at which it considers the subject property might reasonably be expected to let on the open market, by a willing landlord, under an assured tenancy, on the same terms as the actual tenancy.
9. In so doing, and in accordance with the Act, the Tribunal ignores any increase in value attributable to tenant's improvements and any decrease in value due to the tenant's failure to comply with any terms of the tenancy.

The Property

10. As stated, and in accord with current Tribunal policy, the Tribunal did not inspect the property, instead relying on the parties evidence and viewing the property via online portals.
11. The property is a two-storey terraced house, with solid brick elevations beneath a pitched and tiled roof. The property is located in a mixed residential and commercial area, close to public transport and the M27 motorway.
12. Fareham is a market town to the north-west of Portsmouth harbour between the cities of Portsmouth and Southampton in south-east Hampshire.
13. The accommodation comprises a kitchen, living room with study area, and cloakroom/wc to the ground floor and one bedroom with ensuite bathroom to the first floor.
14. To the front of the property is a graveled garden area enclosed by a brick wall and timber fencing, and to the rear is a larger garden with a summerhouse.
15. The property has no off-road parking or garage. Permit parking is available locally.
16. Gas central heating, a woodburner, and double glazed windows are installed.
17. White goods are supplied by the tenant.

Submissions - Tenant

18. In her written evidence the tenant states the accommodation to be small, with poor first floor access, and in need of maintenance and repair. She further notes the property to be configured with a flying freehold.

19. By way of evidence of disrepair, she describes, and provides photographs of, water stains beneath the kitchen sink; exposed plumbing; rising damp; an ill-fitting kitchen tap; faulty smoke detector – since rectified by the landlord; fire damaged electrical wiring; water leak from the gas boiler and associated damp stains to walls; cracked bath; unhinged doors; and a broken external tap.
20. Further disrepair, unsupported by photographs, is noted to include damaged kitchen drawers; a loose cloakroom basin; loose and dangerous stair carpet.
21. The first floor bathroom toilet is alleged to have been blocked, and unusable, since 2014.
22. The tenant states that the ground floor cloakroom, accessed off the kitchen, is so small that the door cannot be closed when the toilet is in use. She further notes that access to the first floor is via a narrow and dangerous staircase, and that in order to install or remove furniture from the bedroom it is necessary to remove a section of the living room ceiling.
23. She claims that since occupying the property she has carried out the majority of maintenance and repairs requirements, in addition to internal decoration.
24. She alleges that requests for the landlord to carry out repairs and maintenance are either ignored or met with refusal on the grounds of the landlord's ill health or that the landlord considers the condition to be reflected in the level of rent.
25. The tenant explains that the initial rent at the commencement of her tenancy on 3 September 2003 was £700.00 per month. In or around October 2009 she claims the landlord reduced the rent to £500.00 with an explanation that he proactively sought to avoid rental voids. Shortly after, the tenant claims the landlord again reduced the rent, this time to £474.99 per month citing accounting preferences. This rent prevailed until notice to increase was served in January 2022 which is the subject of this application.
26. In response to the notice the tenant offered a rental increase of 27% and a further offer of 35%; both offers were refused by the landlord.
27. The outstanding repairs and dampness were subject to an inspection by the Environmental Health department, following a referral by Fareham Borough Council. A copy of this report was not submitted in evidence.
28. The tenant considers the landlord to have failed in his duty to meet the repairing obligations of the lease and, accordingly, that a rent of £641.00 per month is an appropriate reflection of the property in its current condition.

29. She provides no comparable evidence to substantiate her proposed rent however she opines that the rental evidence cited by the landlord is not directly comparable.
30. In his submissions the landlord lists works to the property he has undertaken and the costs thereby incurred. The tenant disputes the costings of said works.

Submissions - Landlord

31. In his written representations the Landlord describes the property as a Listed terraced cottage full of character, including beamed ceilings. He describes the accommodation as large and with the benefit of a sunken sun patio, good size garden and summer house to the rear, plus a garden to the front.
32. He describes the location as being on the “good side” of the village, rather than the “riverside that floods”.
33. The landlord acquired the property, in a derelict condition, in 2003 at a price of £135,000 following which he spent £35,000 carrying out a complete refurbishment later that same year.
34. The applicant signed a tenancy agreement on 1 September 2003 at a rent of £700.00 per month.
35. In or around 2006 and following the granting of planning consent, the kitchen was extended at a cost of £40,000, the summer house built at a cost of £6,000 and double glazing fitted at a cost of £2,000.
36. In 2010 a longer burner and flue were installed at a cost of £2,000 and in 2018 £2,000 was spent fitting Astro-turf to the rear garden. A further £2,000 was spent on water mains separation.
37. The landlord states the total cost of acquiring the property, plus refurbishment and repairs to be £224,000, against a capital value, in 2022, of £250,000.
38. He contends that an administrative error, due to a change in accountants, led to the tenant paying rent of £475.00 per month instead of the £700.00 per month due under the tenancy agreement.
39. The landlord values the property at a rental of £850.00 per month but proposes an increase to £750.00 per month.
40. In support of the proposed rent the landlord initially provided two comparables.

41. The first comparable was a one bedroom retirement flat at Tiverton Court, Fareham which was marketed on Rightmove between 15 July 2020 and 16 February 2021 at an asking price of £825.00 per month.
42. The second comparable was a one bedroom terraced cottage with similar character features in North Wallington which was marketed between 22 October 2018 and 10 April 2021 at an asking price of £750.00 per month.
43. The landlord's representative subsequently requested permission from the Tribunal for the landlord to rely on a further comparable in evidence. As the request was made after the date for compliance in the Directions the Tribunal required an Order 1 to be completed and filed which duly followed.
44. The additional comparable was a one bedroom flat located in Clifton Mews for which an online listing was provided, including photographs, advertised on the 23 March 2022 at £775.00 per month. The comparable is located within close proximity of the subject property.

Determination

45. 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. In addition, the legislation makes it clear that the Tribunal cannot take into account the personal circumstances of either the landlord or the tenant.
46. 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 disrepair which is not due to a failure of the tenant to comply with the terms of the tenancy.
47. The tenant provides no comparable evidence, instead relying on a starting rent of £474.99, consideration of disrepair, a lack of landlord provided white goods, and her proposed rent of £641.00 per month. She rejects the landlord's rental evidence as not comparable.
48. The landlord provided the tribunal with three comparable asking rentals, the last of which was filed after the deadline for submissions. No confirmation of achieved prices or dates of transaction were provided. We take these in order.
49. The Tribunal did not consider the letting of a one bedroom retirement flat at Tiverton Court as useful evidence. The comparable has the benefit of a 24 hour careline, use of a communal lounge, guest suite and laundry room, and the services of a development manager. As such this property appeals to a

wholly different tenant than a two-storey period cottage with restricted bedroom access.

50. The one bedroom terraced property at North Wallington is more in keeping with the style and period of the subject and was marketed at £750.00 per month. The Tribunal note however that the property was advertised for just under eighteen months which is considered unusual and raises a question as to condition. We note the tenant's claim that the property is a two bedroom cottage and that, at the time of submissions, remained vacant.
51. The Tribunal considered whether to admit the landlord's additional comparable evidence, that being a one bedroom flat in Clifton Mews and, following deliberation, decided to do so. That said, and as with the first comparable, we found it of little assistance, as we did not consider a modern well presented ground floor flat with allocated parking within a gated development as comparable to a period cottage.
52. The Tribunal, taking all submissions into account and using its own general knowledge and expertise of rental values in the area, assesses the rent for the subject property, in good condition, at £850.00 pcm.
53. The Tribunal then considered the issue of condition. It is noted that the landlord neither addresses nor refutes the tenant's claims of disrepair. Further, neither does he address the Tribunal on the inspection carried out by Environmental Health.
54. On that point, the Tribunal considered whether it required a copy of the Environmental Health report. Within her submissions the tenant provides extensive narrative of the issues, supported by twenty three annotated photographs. We therefore concluded that sufficient information was before us from which to make a reasoned decision.
55. From the submissions it was evident to the Tribunal that some disrepair existed which can be attributed to the landlord's lack of general ongoing maintenance and repair.
56. The Tribunal did not accept that restricted access to the first floor or poor configuration of accommodation warranted a reduction in rent, as, in our experience such characteristics are common in period cottages and are outweighed by appealing features such as beamed ceilings and flagstone floors.
57. The tenant claims, and the landlord does not refute, that white goods are provided by the tenant. The Tribunal therefore make a rental adjustment in this regard.
58. Further, it is claimed that curtains are provided by the tenant for which a deduction is made.

59. Using its experience, the Tribunal decided that the following adjustments should be made to the full open market rent to reflect the condition and provision of tenant's white goods and curtains:

Condition	10%
Tenants' provision of white goods	5%
Tenants' provision of curtains	2.5%

60. Deducting 17.5% from the full open market rent of £850.00 provides a rental figure of £701.25 per month.
61. The Tribunal therefore determined that the rent at which the property might reasonably be expected to let on the open market would be £701.25 per calendar month.
62. The Tribunal identified no hardship grounds and, accordingly, this rent will take effect from 1 March 2022, being the date of the landlord's notice.

Johanne Coupe FRICS (Chairman)
9 May 2022

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 by email to rpsouthern@justice.gov.uk to the First-tier Tribunal at the Regional office which has been dealing with the case.
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.