



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

Case reference : **CHI/19UD/MNR/2022/0021**

Property : **Loders Cottage, Woodcutts Lane, Gaunts,
Wimborne, Dorset, BH21 4JJ**

Applicant : **Mr A Speight**

Representative : **None**

Respondent : **Sir Richard Glyn Bt**

Representative : **Mr C Russ MRICS - Gaunts Estate**

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 M Woodrow MRICS**

Date of decision : **13 June 2022**

DECISION

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Covid-19 pandemic: Description of determination

This has been a remote determination on the papers which has been consented to by the parties. A face-to-face hearing was not held because it was not practicable and all issues could be determined remotely 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 13 June 2022 the Tribunal determined a market rent of £1093.75 per calendar month to take effect from 13 March 2022.

Background

1. By way of an application dated 4 March 2022, the Applicant Tenant of Lodgers Cottage, Woodcutts Lane, Gaunts, Wimborne, Dorset, BH21 4JJ (the Property), referred a notice of increase in rent (the Notice) by the Landlord of the property under Section 13 of the Housing Act 1988 (the Act) to the Tribunal.
2. The Notice was dated 11 February 2022 and proposed a new rent of £1,500.00 per calendar month to take effect from 13 March 2022. No existing rent was recorded.
3. On 17 March 2022 the Tribunal gave notice that it was minded to strike out the application on the grounds that the Landlord's notice did not state the existing rent. The Tribunal invited representations from the parties.
4. On 31 March 2022 the Landlord's representative made representations which were copied to the Tenant. These stated that the existing rent was in dispute or otherwise unknown and, accordingly, the rent passing could not be stated on the notice.
5. No contrary representations were received from the Tenant.
6. In the circumstances the Tribunal accepted the explanation provided.
7. The Tenant occupied the Property under an Assured Agricultural Occupancy as defined in s.24 Housing Act 1988. The date of commencement was stated on the application form as 13 November 2014.
8. On 12 April 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 also advised that no inspection would be undertaken.

9. The Directions required the Landlord and Tenant to submit their completed statements by 26 April 2022 (Landlord) and 10 May 2022 (Tenant) with copies also to be sent to the other party.
10. The Tribunal reviewed the parties submissions and determined that it could fairly and reasonably proceed to a decision on the papers.
11. The matter was determined having regard to the evidence contained in the submissions and application.

Law

12. 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.
13. 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

14. 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.
15. The property is a two-storey detached house with a single-storey attachment, constructed with solid brick elevations, part rendered, beneath a pitched and tiled roof.
16. The property is located in a rural area, within 5 miles of Wimborne and 15 miles of Bournemouth.
17. The accommodation comprises a kitchen, living room, dining room and bathroom at ground floor and three bedrooms and a storage room to the first floor.
18. The property is set in extensive grounds including woodland and gardens, and has the benefit of a brick built outhouse.
19. The property has generous off road parking.
20. Heating is provided by an oil fired central heating system and two electric heaters. Windows are timber framed and single glazed; drainage is to a septic tank.
21. White goods are supplied by the tenant. The Landlord provides carpets to the first floor.

Submissions - Tenant

22. In his written submissions the Tenant referred to a number of repair and maintenance issues, supported by photographic evidence. Summarised, these included:
 - a. Oil fired central heating out of operation since March 2019;
 - b. The only form of heating being two, expensive to run, electric heaters, one in the lounge and the second in one of the bedrooms;
 - c. Damp and mould issues to the walls and ceilings
 - d. Defective electrical installations
 - e. General disrepair to the roof and guttering;
 - f. Missing/damaged cover to the septic tank;
 - g. Energy Performance Certificate (EPC) grade G.
23. In his written evidence Mr Speight stated the notional rent, in 2014, to have been £10,000 per annum (£833.33 per month). To arrive at a current rent, he adjusted this figure using a number of indices, these being the consumer price index (CPI), retail price index (RPI) and the CPIH (consumer price index with housing costs), and, in doing so, arrived at a maximum current rental figure of £1,049 pcm.
24. Mr Speight referred the Tribunal to two comparable properties advertised for letting:
 - a. **Manor Farm Cottage, Gussage St Michael:** 3 bedroom semi-detached house; refitted kitchen and bathroom; oil central heating; recently redecorated; inclusive of white goods.
Advertised at £1,300 pcm.
 - b. **Horton, Wimborne:** 3 bedroom detached house; 2 bathrooms, double glazed; garage.
Advertised for let at £1,400 pcm.
25. Mr Speight further referred the Tribunal to three previous Rent Officer determinations and, whilst acknowledging that the subject Property does not qualify under such legislation, he contended that the registered uncapped rents provided a useful insight into local rental values.
26. **3 Deans Leaze Farm Cottages:** a three bedroom house was registered with effect from 3 September 2021 at an uncapped rent of £735 per month. A three bedroom detached house at **Park View** was registered as an uncapped rent from 13 October 2019 at £853 per month. **Clematis Cottage**, a four bedroom detached house was registered with effect from 8 February 2021 at £900 per month.

Submissions - Landlord

27. In his written representations the Landlord described the property as a four bedroom detached house with a ground floor bathroom, oil fired central heating and extensive gardens and grounds. The Property is to be found in a rural location on the edge of historic private parkland, within four miles of Wimborne and within walking distance of local amenities.

28. The Landlord claimed that between 2017 and March 2022 the Appellant Tenant refused entry to the Property and that, accordingly, no repairs had been undertaken during this period.
29. The Landlord advised the Tribunal of a number of improvements made to the Property at the Landlord's expense, these being a refitted kitchen in or around 2010; a refitted bathroom installed between 2010-2014; and redecoration sometime between 2010-2014.
30. In support of the proposed rent the Landlord referred the Tribunal to five comparable lettings:
 - a. **2 Dairy Cottages:** 2 bedroom semi-detached cottage; Gaunts Estate; reasonable condition.
Letting agreed April 2022 at £1,000 pcm
 - b. **River Cottage:** 2 bedroom semi-detached cottage; centre of Wimborne; permit parking; good condition.
Letting agreed Spring 2022 at £1,100 pcm.
 - c. **1 Ashton Lodge:** 3 bedroom semi-detached cottage; Gaunts Estate; reasonable condition.
Letting agreed April 2022 at £1,250 pcm.
 - d. **Woodcutts Farmhouse:** 4 bedroom detached house; Gaunts Estate; tired condition.
Rent agreed 1 March 2021 at £1,750 pcm.
 - e. **Hillbutts:** 3-4 bedroom thatched cottage; Pamphill; National Trust Estate.
Available May 2022 at £1,900 pcm.

Determination

31. 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.
32. 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.
33. In determining the rent, the Tribunal has regard to the evidence supplied by the parties and the Tribunal's own general knowledge of market rent levels in the wider area.

34. The Tenant's comparables were undated. The Tribunal was therefore unclear as to whether these properties were currently advertised to let or whether they were historic lets and, if so, what rent was achieved and on what date.
35. That said, the Tribunal in considering the two comparables noted that they were located within a six mile radius of the Property and were in a far superior condition than the subject Property. Also noted were the size of the gardens which, although average for the type of property, were considerably less than the grounds and woodland available to the subject Property.
36. The Tribunal was unable to attribute any weight to the Rent Act 1977 comparables provided by the Tenant as insufficient information on each property, including any deductions made by the Rent Officer, was provided.
37. In regard to the Tenant's upward adjustment of the rent by reference to published indices, the Tribunal in making its determination has no regard to the passing rent. Nevertheless, it finds the Property to be such a unique offering that national statistical averages would be of little assistance. Furthermore, the Tribunal noted that the figure of £10,000 was a notional rent and was part of a package of employee benefits which included child school fees. As such the Tribunal discounted this method of calculating the current rent.
38. The Landlord's comparables included three semi-detached cottages, two with 2 bedrooms and the other with 3 bedrooms. These were smaller cottages than the subject Property and in a superior condition. The rents achieved ranged from £1,000 - £1,250 pcm. From an online search, Woodcutts Farmhouse was noted to be the Landlord's comparable located closest to the subject, which was let for £1,750 pcm in a tired condition through the Landlord's Estate. Online images show this property to be larger than the subject and close to farm buildings and grounds, none of which the Landlord commented on. The Tribunal found that insufficient information on the extent of this letting was provided for this comparable to be relied upon. The final comparable, Hillbutts, was a 3-4 thatched cottage on a National Trust Estate let for £1,900 pcm. Again, insufficient information was provided for the Tribunal to draw any useful comparison.
39. In determining the rent, the Tribunal has regard to whether the Property meets the standard of accommodation, repair and amenity of a typical modern letting. In this instance the Tribunal determined that the subject Property fell short of the standard required by the market.
40. The Property has an Energy Performance Certification Rating of G. The minimum requirement for offering a property to let on the open market is Rating E.
41. It is common ground between the parties that the Property is in a state of disrepair. The photographic evidence provided by the Tenant illustrated the

extent of various works required. The Tribunal noted, amongst others, the poor condition of the structure and rainwater goods, the extensive ceiling and wall mould, and the exposed septic tank. Of particular concern to the Tribunal were the two small electric heaters which appeared wholly inadequate to heat a property of this size which, coupled with the single glazed windows, would be likely to result in high levels of condensation dampness.

42. The Landlord claimed that the lack of repair and maintenance was a consequence of the Tenant refusing access between 2017 and March 2022. However, no evidence of any failed attempts to gain entry within that period were submitted. Furthermore, in a letter from Mr Speight to c/o Gaunts Estate Office dated 21 December 2021 Mr Speight writes:

“I look forward to working with the owner’s representative in a courteous and professional manner, there has been no contact prior to your letter since Mr Ivey left the Estate Office position in the summer of 2019”.

Such evidence would appear to contradict the Landlord’s position on this point.

43. The Tribunal noted that no white goods were provided by the Landlord and that the curtains were provided by the Tenant.
44. The Tribunal had regard to the Landlord’s improvements, those being a refurbished kitchen and bathroom, and redecoration. However, it noted such works to have been completed between eight and twelve years ago. The Tribunal also considered the photographic evidence of mould and concluded that the Property, in part at least, requires redecoration.
45. Based on the knowledge of its members, the Tribunal finds that the market for this type or property is very sensitive to condition and inventory.
46. The Tribunal, acting as an expert Tribunal, and having considered the comparables provided by both parties and its own expert knowledge, determined the rent which the Property could be expected to achieve on the open market if it were in a condition and state of modernisation considered usual for such a letting, including an EPC rating of E or above, would be £1,750 pcm.
47. However, the subject property is not in a condition considered typical of a modern letting at a market rent. The Tribunal therefore adjusted the starting rent accordingly.
48. Using its experience, the Tribunal determined that the following adjustments should be made to the full open market rent to reflect the condition of the Property and provision of tenant’s white goods and curtains:

Disrepair	10%
Lack of heating; EPC Grade G	20%
Tenants' provision of white goods	5%
Tenants' provision of curtains	2.5%

49. Deducting 37.5% from the full open market rent of £1,750.00 provides a rental figure of £1,093.75 per month.
50. The Tribunal therefore determined that the market rent for the subject property is £1,093.75 per calendar month.
51. The Tribunal identified no hardship grounds and, accordingly, this rent will take effect from 13 March 2022, being the date of the landlord's notice.

Johanne Coupe FRICS (Chairman)
13 June 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.