



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

Case reference : **CHI/40UB/MNR/2022/0031**

Property : **3 East Road, Street, Somerset, BA16 0DB**

Applicant : **Ms V Freeman**

Representative : **None**

Respondent : **Mr T Ruddle & Mrs A Ruddle**

Representative : **Busybee Lettings Ltd**

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 Ayres FRICS
Mr P Smith FRICS**

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 in a remote determination 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 £900.00 per calendar month to take effect from 1 April 2022.

Background

1. By way of an application dated 28 March 2022, the Applicant Tenant of 3 East Road, Street, Somerset, BA16 0DB (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 23 February 2022 and proposed a new rent of £940.00 per calendar month, in place of the existing rent of £895.00, to take effect from 1 April 2022.
3. The Tenant occupies the Property under an Assured Shorthold Tenancy commencing 1 June 2017.
4. On 11 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.
5. The Directions required the Landlord and Tenant to submit their completed statements by 25 April 2022 (Landlord) and 9 May 2022 (Tenant) with copies also to be sent to the other party.
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 bay fronted two-storey semi-detached house built circa. 1960's and subsequently extended to provide a front porch and side utility. The property is constructed with brick elevations beneath a pitched and tiled roof.
12. The property is located on the edge of Street and within walking distance of local shops and amenities. The M5 motorway, and South-West beyond, are within easy access.
13. The accommodation comprises a kitchen, living room/diner, utility/wc at ground floor and three bedrooms and a bathroom to the first floor. A good size garden is located to the rear.
14. The property has a single garage and a parking space outside the garage.
15. Central heating and double glazing are provided by the Landlord.
16. With the exception of a cooker, all other white goods are supplied by the tenant.
17. The Landlord provides floor coverings and the Tenant provides curtains.

Submissions - Tenant

18. In her written submissions the Tenant referred to a number of repair and maintenance issues, supported by photographic evidence. Summarised, these included:
 - a. Various gas boiler defects;
 - b. Various central heating system/water cylinder/ system control defects;
 - c. Various water leaks - resulting in distortion of the hallway and kitchen ceilings;
 - d. Health & safety risk - concrete asbestos water tank;
 - e. Main roof - repeated water ingress, leading to condensation, black mould and putrid smell;
 - f. Garage/Utility roof – repeated water ingress;
 - g. Loft – vermin infestation;
 - h. Floorboards - loose and deteriorating;
 - i. Kitchen - dampness caused by water ingress;
 - j. Fire risk – polystyrene ceiling tiles;

- k. Bathroom radiator – rusting;
 - l. Bathroom door – dated and painted off-white;
 - m. Kitchen & pantry door – painted off white;
19. Ms Freeman stated that she had improved the rear garden by the removal of considerable quantities of buried rubble and the addition of top soil to provide a level surface.
20. Ms Freeman listed the refurbishment works undertaken by the Landlord prior to her occupation as:
- a. Bathroom – replacement bath/taps; shower; sink/taps; tiling/mirror; lino.
 - b. Upstairs toilet – toilet fitting; lino; toilet roll holder;
 - c. Landing/stairs – carpet;
 - d. Hallway – Vinyl floor covering;
 - e. Kitchen – replacement units, double oven, hob, extractor, sink/taps, radiator.
 - f. Lounge/diner – door blocked;
 - g. Redecoration of walls throughout; some woodwork repainted – timber remains in poor condition beneath;
 - h. Rewired;
 - i. Plumbing modifications.
21. Ms Freeman noted that the first floor doors had not been repainted, that two bedroom doors did not close securely, and that door furniture was mismatched or inadequate.
22. Ms Freeman advised that the Landlord attended on 19 November 2017 to remedy a number of maintenance issues which she listed in her submissions.
23. Ms Freeman asserted that the hot water and heating system required replacement prior to letting and that the Gas Safety Certificate advised an upgrade.
24. In support of her application, Ms Freeman relied on a March 2019 advertised letting of a modernised 3 bedroom house in The Boardwalk, Street, listed at an asking price of £815.00 per month. She asserted that the Landlord's comparables were not similar in terms of age, condition or state of modernisation. She considered an appropriate rent, to reflect the Property's condition and state of repair, was £850.00 per month.

Submissions - Landlord

25. The Landlord made the following representations (summarised):
- a. Main roof replaced September 2020;
 - b. New kitchen fittings June 2016;
 - c. New bathroom fittings June 2016;
 - d. Water header tank replaced September 2020;
 - e. Water ingress to the garage and utility roof - scheduled for repair 23 April

- 2022;
- f. Any alterations to the garden are unauthorized;
 - g. No service charges.
26. The proposed rental increase of 5.03% is below the Consumer Price Index with Housing, which, in February 2022, stood at 5.5%.
27. In support of a rental figure of £940.00 per month the Landlord relied on two Best Price Guides which, between November 2021 and April 2022 listed eight 3 bedroom houses within a one mile radius of the subject Property as available to let. Seven of these were at rental figures in excess of the proposed rent. The property with a lower asking price had no garage/parking, dated fittings and was located at the end of a cul-de-sac.
28. Landlord's comparable properties (summarised):
- a. Coutre Street, Steet: 3 bed mid-terraced; 3 bathrooms; garage; £1,100 pcm.
 - b. Elaina Close, Street: 3 bed detached house; finished to high standard; £1,075 pcm
 - c. Piazza Street, Somerset: 3 bed end-terraced house £1,025 pcm
 - d. High Street, Street: 3 bed mid-terraced house £975 pcm
 - e. Anthony Road, Street: 3 bed semi-detached house £900 pcm
 - f. Orchard Road, Street: 3 bed semi-detached house £1,250 pcm
 - g. Wessex Close, Street: 3 bed mid-terraced house £1,195 pcm
 - h. Vestry Road, Street: 3 bed semi-detached house £1,100 pcm.

Determination

29. 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.

30. The Tribunal assesses a rent for the property as it is on the day of the determination, 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.
31. 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.
32. The Tenant's comparable dated from March 2019. In the intervening period the property letting market changed markedly due, in part, but not exclusively, to the effects of the pandemic, rising house prices and demand in most parts of the South-West outstripping supply. The Tribunal were therefore unable to attribute much weight to this historic evidence.
33. The Landlord's basket of comparable lettings included evidence of modern and period properties, which varied in size, condition and degrees of modernisation from the subject. Using their expert knowledge, the Tribunal analysed and weighted the evidence in comparison to the subject.
34. The Tribunal considered the photographs showing the rear garden before and after the Tenant's works and concluded that these works constituted a tenants' improvement. In accordance with legislation, the increase in value attributable to said works was therefore disregarded and the garden valued in its original letting condition.
35. In determining the rent, the Tribunal had regard to whether the Property meets the standard of accommodation, repair and amenity of a typical modern letting. In this instance, the Tribunal concluded that the subject Property fell short of the standard required by the market. This conclusion was arrived at having considered the Tenant's photographs showing, amongst others, evidence of water staining, blistered finishes, dampness and mould, and cross referencing the Tenant's chronological schedule of defects against the list of remedial works already undertaken and those scheduled.
36. The Tribunal checked the Energy Performance Certification register whereupon it noted the Property to be rated as Grade C. The minimum requirement for offering a property to let on the open market is Rating E.
37. The Tribunal noted that, with the exception of the cooker, no white goods were provided by the Landlord and that the curtains were provided by the Tenant.
38. The Tribunal had regard to the Landlord's list of improvements.
39. 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.
40. 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, and disregarding any increase in value due to the tenants' garden improvements would be £1,000 pcm.

41. 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.

42. 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	5%
Tenants' provision of white goods	2.5%
Tenants' provision of curtains	2.5%

43. Deducting 10% from the full open market rent of £1,000.00 provides a rental figure of £900.00 per calendar month.

44. The Tribunal therefore determined that the market rent for the subject property is £900.00 per calendar month.

45. The Tribunal identified no hardship grounds and, accordingly, this rent will take effect from 1 April 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.