



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

Case Reference : **CHI/21UD/MNR/2022/0040**

Property : **First Floor Flat, 48 Cornwallis Gardens,
Hastings, East Sussex, TN34 1LX**

Applicant : **Mr K Muller and Ms D Hayter
(Tenants)**

Respondent : **Mr M Brooks (Landlord)**

Date of Application : **14th April 2022**

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

Tribunal : **Mr R T Brown FRICS Chairman
Mr C Davies FRICS ACI Arb
Mr P Smith BSc FRICS**

Date : **20th June 2022**

REASONS FOR DECISION

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Background

1. The Tribunal gave formal notice of its decision by a Notice dated 20th June 2022 will be **£750.00 per calendar month (pcm)** with effect from 16th April 2022.
2. By an application dated 14th April 2022, the Tenants 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 22nd February 2022 proposed a rent of **£825.00 pcm** with effect from 16th April 2022, in place of the current rent of £650.00 pcm.
4. The tenancy is an assured shorthold tenancy. The tenancy agreement is unsigned, in common form and is undated but believed to have commenced 16th April 2019. 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 28th April 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 the close to the town centre.
8. The property comprises a centrally First Floor Flat in converted semi detached house. Permit parking.
9. The accommodation comprises: Living Room, kitchen, bathroom and 1 double and 1 single bedroom.
10. The property is let with floor coverings and cooker.
11. The Tribunal assumed that all mains services are connected.

Documents supplied to and considered by the Tribunal

12. Tribunal Directions dated 9th March 2022.
13. Landlord: Tribunal Reply Form.
14. Tenant: Application Reply Forms, Notice of Increase and Tenancy Agreement and Building Surveyor's report.

Landlord's Representations (summarised):

15. The Landlord says in the Reply Form and attachments:
 - a) Includes floor plan and photographs

- b) Damp patch on chimney breast comes and goes despite replacing the entire roof.
 - c) Cooker has one ring not working.
 - d) The Landlord calculates that under the Nationally Described Space Standard the 2nd bedroom qualifies as an adult room if the walk-in cupboard is included.
 - e) Hasting station is approximately 200 yards away.
16. As to rental value the Landlord considers £825.00 is a fair rent after consulting the Best Price Guide attached to the Reply Form. The guide includes 15 properties at rent ranging from £795.00 to £1,400.00 pcm.

Tenant's Representations (summarised)

17. The Tenant says in the Application and Reply Forms:
- a) Photographs showing the current condition of the flat including cracking to decorations and need for windows to be refurbished.
 - b) Small kitchen and photographs showing condition of units.
 - c) The flat could do with sprucing up throughout including the sash windows.
 - d) Kitchen and bathroom fittings are all 'tired looking'.
 - e) The Tenants say that the 2nd bedroom does not meet the requirements because the ceiling is too low and it is not '*of a shape offering useable living space*' There is insufficient room to install a single bed.
 - f) Whilst the station location is brilliant it also means noise.
18. The Tenant offered an increase of £75.00 to £725.00 pcm. The Tenants believe that if the flat were renovated and decorated it would achieve the Landlord's figure of £825.00.
19. The Tenants contest the Landlord's evidence as not being directly comparable as the properties on offer are recently refurbished. The flat below has not been rented out and has been empty for some time.
20. The Tenants include examples of flats at rents between £695.00 and £720.00 pcm which they consider to be more comparable.

The Tribunal's Deliberations

21. The Tribunal found as a matter of fact that the notice was a Notice under section 13 as prescribed by Statute.
22. 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.
23. The Tribunal checked the National Energy Performance Register and noted that the subject property has a certificate registering the property at C expiring on 19th August 2028. The legal minimum standard for letting a property is rating E.

24. 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.
25. The Tribunal makes no determination as to whether or not the 2nd bedroom is of the minimum size however it noted from the evidence submitted that the room is awkward in its layout and has taken this into account in its valuation.
26. 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 **£825.00 pcm.**
27. The Tribunal, after careful consideration of the current market conditions and the apparent condition (as submitted by the parties) of the subject property determined to make deductions in respect of issues identified:
 - a) General disrepair: £50.00
 - b) Awkward 2nd Bedroom £25.00Total deduction £75.00 pcm
28. Accordingly, the Tribunal determined that the market rent for the subject property is **£750.00 pcm.**
29. The rent will take effect from 16th April 2022 being the date specified by the landlord in the notice of increase.

Relevant Law

30. Sections 13 and 14 of the Housing Act 1988.
31. 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.