



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

Case Reference : **CHI/18UC/MNR/2022/0072**

Property : **40 Well Oak Park, Exeter, Devon EX2 5BB**

Applicant : **O Aldowah and R Hanash
(Tenants)**

Respondent : **T Upadhye and K Sharma c/o
Southerngates Estates (Landlord)**

Date of Application : **27th June 2022**

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

Tribunal : **Mr R T Brown FRICS Chairman
Mr N Robinson FRICS**

Date : **25th July 2022**

REASONS FOR DECISION

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Background

1. The Tribunal gave formal notice of its decision by a Notice dated 25th July 2022 will be **£1,400.00 per calendar month (pcm)** with effect from 4th July 2022.
2. By an application dated 27th June 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 16th May 2022 proposed a rent of **£1,400.00 pcm** with effect from 4th July 2022, in place of the current rent of £1,295.00 pcm.
4. The tenancy is an assured shorthold tenancy. The tenancy agreement is in common form and is dated 4th March 2021. 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 6th July 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 close to the city centre with access to all amenities.
8. The property comprises a Three storey double glazed centrally heated end terrace house.
9. The accommodation comprises: Living Room, kitchen, bathroom and 3 bedrooms (one with en suite shower). Outside: Courtyard garden and garage.
10. The property is let unfurnished with floor coverings, cooker, fridge and washing machine.
11. The Tribunal assumed that all mains services are connected.

Documents supplied to and considered by the Tribunal

12. Tribunal Directions dated 6th July 2022.
13. Landlord: Tribunal Reply Form.
14. Tenant: Application, Reply Forms, Notice of Increase and Tenancy Agreement.

Landlord's Representations (summarised):

15. The Landlord says in the Reply Form and attachments:
 - a) A schedule of expenditure in maintaining the property between April 2021 and July 2022.

b) The property is well maintained with all safety certificates.

16. As to rental value the Landlord says:

- a) The cost of everything has increased.
- b) The Tenant's have been in occupation since September 2019 and the rent has not been increased since March 2020.
- c) Works needed have been carried out promptly.
- d) Three nearby comparables are provided showing rents between £1,500 and £1,650.00 pcm.
- e) This is justified, the agent is managing another property in the same cul de sac at a rent slightly higher than £1,400.00 pcm.

Tenant's Representations (summarised)

17. The Tenant says in the Application and Reply Forms:

- a) There is no central heating or double glazing. There is a dishwasher but not washing machine.
- b) The Tenant changed the sink in the toilet on the 3rd Floor in May 2021.
- c) The condition of the house is the same as when the tenancy commenced.

18. The Tenants say that neighbours in a 3 bedroom house nearby are paying £1,050.00 pcm and a 4 bedroom house £1,300.00 pcm.

Rent from September 2019 to March 2020 £1,275.00
Mar 2020 to March 2022 £1,295.00.

19. Photographs are attached which show marks on carpets, a broken back gate and the driveway.

The Tribunal's Deliberations

20. The Tribunal found as a matter of fact that the notice was a Notice under section 13 as prescribed by Statute.

21. 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.

22. The Tribunal checked the National Energy Performance Register and noted that the subject property has a certificate registering the property at D expiring on 2nd March 2025. The legal minimum standard for letting a property is rating E.

23. 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.

24. 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 **£1,400.00 pcm.**

25. The Tribunal looked at the factual difference in the party's submissions and concluded:
 - a) The difference in rental terms between having a dishwasher or a washing machine was negligible.
 - b) From the EPC certificate (2015) the Tribunal noted that the property was both double glazed and centrally heated. The Landlord's schedule refers to replacing the heating control unit.
26. The Tribunal considered the rental evidence of both parties and concluded that little weight could be placed on the Tenant's evidence of rents of adjoining properties as no details were given as to whether the tenancies included furnishings and the dates on which those rent were agreed and whether the tenants were in occupation at the time as opposed to being agreed in the market place.
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 no deduction in respect of any of the issues identified.
28. Accordingly, the Tribunal determined that the market rent for the subject property is **£1,400.00 pcm.**
29. The rent will take effect from 4th July 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.