



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

**Case Reference** : **CHI/00HN/MNR/2022/0057**

**Property** : **3 Waterloo Mews  
15 Alma Road  
Bournemouth  
Dorset  
BH9 1FD**

**Landlord** : **ASN Capital Investments Ltd**

**Representative** : **None**

**Tenant** : **Ms R Peach**

**Representative** : **Eleanor Fisher**

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

**Tribunal Members** : **Mr I R Perry BSc FRICS  
Mr M J Ayres FRICS  
Mr C M Davies FRICS ACI Arb**

**Date of Inspection** : **None. Paper determination**

**Date of Decision** : **3<sup>rd</sup> August 2022**

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**DECISION**

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## **Summary of Decision**

1. On 3<sup>rd</sup> August 2022 the Tribunal determined a market rent of £950 per month to take effect from 29<sup>th</sup> May 2022.

## **Background**

2. The case concerned the determination of a market rent for the subject property following a referral of the Landlord's notice of increase of rent by the Tenant pursuant to Sections 13 and 14 Housing Act 1988.
3. On 21<sup>st</sup> April 2022 the Landlord served a notice under Section 13(2) of the Housing Act 1988 which proposed a new rent of £995 per month in place of the existing rent of £800 per month to take effect from 29<sup>th</sup> May 2022. The notice complied with the legal requirements.
4. On 17<sup>th</sup> May 2022 the Tenant applied to the Tribunal under Section 13(4) (a) of the Housing Act 1988.
5. The Coronavirus pandemic and considerations of health have caused a suspension of inspections and Tribunal hearings in person until further notice.
6. The Tribunal issued directions on 26<sup>th</sup> May 2022 informing the parties that the Tribunal intended to determine the rent based on written representations and that the Tribunal would seek to view the property on the internet. The parties were invited to make submissions which could include photographs or videos.
7. Both parties submitted papers setting out their respective cases which were also copied to the other party.
8. As stated in the Directions, as no objection was received from either party, the Tribunal determined the case on 3<sup>rd</sup> August 2022 based on the documents received without an oral hearing.

## **The Property**

9. From the information given in the papers and available on the internet the property comprises an inner terraced house within a small development of similar properties built about 15 years ago. It is situated in a residential area close to the centre of Bournemouth and is within reach of all main amenities.
10. The property is built of brick elevations beneath a tiled roof. The accommodation is described as an open Living Room/Kitchen, WC, 2 Bedrooms and a Bathroom. There is a single allocated parking space, shared gardens and a cycle store.
11. The accommodation has gas-fired central heating and double-glazed windows. Carpets, curtains and white goods are all included. The

Tribunal was unable to find an Energy Performance Certificate for the property.

### **Submissions**

12. The initial tenancy began on 23<sup>rd</sup> November 2016. The Landlord's Agent provided photographs of the property and stated that regular inspections are carried out and maintenance is up to date.
13. The Agent also provided details of comparable properties with asking rents ranging from £850 per month to £1,400 per month.
14. The Tenant states that the second bedroom is very small with a floor area of only 6.43 square metres and limited headroom due to a sloping ceiling. She also states that there are several outstanding maintenance issues notified to the Landlord on 4<sup>th</sup> May 2022 including rotting/damp skirting in the kitchen, damaged fences and unstable bricks at the edge of the parking area.
15. The Tenant also states that the gardens are small and not private.
16. The Tenant also refers to abuse she receives from a neighbour who also occupies a property owned by the Landlord. She provides comparable evidence of 2-bedroom properties let for £1,000 per month and asks that the rent be reduced to £750 per month.
17. On 16<sup>th</sup> June 2022 the Landlord's Agent submitted an application for a case management interim order that the Tribunal should debar evidence from the Applicant relating to maintenance, features, contractual obligations/duty of care and submissions about rent rises and caps.
18. The reasons given for this request are given that the outstanding maintenance issues had been completed by 13<sup>th</sup> May 2022, that the garden is private but is shared between the properties in Waterloo Mews, that issues involving the Tenant's neighbour should properly be referred to the Police.
19. The Tribunal had issued further Directions on 14<sup>th</sup> July 2022 refusing the application to debar the Tenant's submission but would include the information provided by the Landlord as Respondent.
20. The Tenant had responded to the Agent's submission of 16<sup>th</sup> June 2022 asking for more time to reply to the Landlord's application, notwithstanding that the Tribunal had refused that application.
21. The Tenant was asked to complete an Order 1 to be returned to the Tribunal by 1<sup>st</sup> August 2022.
22. The Tenant emailed the Tribunal on 2<sup>nd</sup> August 2022 giving her reasons why the Landlord's application to debar some of her original evidence should be refused. The Tribunal had already decided that her evidence would not be debarred and had issued Directions to that effect on 14<sup>th</sup> July 2022.

## The Law

### S14 Determination of Rent by First-tier Tribunal

- (1) Where, under subsection (4) (a) of section 13 above, a tenant refers to a First-tier Tribunal a notice under subsection (2) of that section, the Tribunal shall determine the rent at which, subject to subsections (2) and (4) below, the Tribunal consider that the dwelling-house concerned might reasonably be expected to be let in the open market by a willing landlord under an assured tenancy-
  - (a) which is a periodic tenancy having the same periods as those of the tenancy to which the notice relates;
  - (b) which begins at the beginning of the new period specified in the notice;
  - (c) the terms of which (other than relating to the amount of the rent) are the same as those of the tenancy to which the notice relates; and
  - (d) in respect of which the same notices, if any, have been given under any of Grounds 1 to 5 of Schedule 2 to this Act, as have been given (or have effect as if given) in relation to the tenancy to which the notice relates.
- (2) In making a determination under this section, there shall be disregarded-
  - (a) any effect on the rent attributable to the granting of a tenancy to a sitting tenant;
  - (b) any increase in the value of the dwelling-house attributable to a relevant improvement carried out by a person who at the time it was carried out was the tenant, if the improvement-
    - (i) was carried out otherwise than in pursuance of an obligation to his immediate landlord, or
    - (ii) was carried out pursuant to an obligation to his immediate landlord being an obligation which did not relate to the specific improvement concerned but arose by reference to consent given to the carrying out of that improvement; and
  - (c) any reduction in the value of the dwelling-house attributable to a failure by the tenant to comply with any terms of the tenancy.
- (3) For the purposes of subsection (2)(b) above, in relation to a notice which is referred by a tenant as mentioned in subsection (1) above, an improvement is a relevant improvement if either it was carried out during the tenancy to which the notice relates, or the following conditions are satisfied, namely-
  - (a) that it was carried out not more than twenty-one years before the date of service of the notice; and
  - (b) that, at all times during the period beginning when the improvement was carried out and ending on the date of service of the notice, the dwelling-house has been let under an assured tenancy; and

- (c) that, on the coming to an end of an assured tenancy at any time during that period, the tenant (or, in the case of joint tenants, at least one of them) did not quit.
- (4) In this section "rent" does not include any service charge, within the meaning of section 18 of the Landlord and Tenant Act 1985, but, subject to that, includes any sums payable by the tenant to the landlord on account of the use of furniture, in respect of council tax or for any of the matters referred to in subsection (1) (a) of that section, whether or not those sums are separate from the sums payable for the occupation.

### **Consideration and Valuation**

- 23. The Tribunal first considered whether it felt able to reasonably and fairly decide this case based on the papers submitted only with no oral hearing. Having read and considered the papers it decided that it could do so.
- 24. 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 are not relevant to this issue.
- 25. Having carefully considered the representations from the parties and associated correspondence and using its own judgment and knowledge of rental values in the Bournemouth area, the Tribunal decided that the market rent for the subject property if let today in a condition that was usual for such an open market letting would be £1,000 per month. This figure reflects the size of the second bedroom.
- 26. However, the property is not in a condition that would command such a rent and an adjustment needs to be made to this 'open market' rent to take account of the general condition of the property as evidenced in the photographs provided. Using its experience, the Tribunal decided that a deduction of £50 per month should be made.
- 27. The Tenant made no representation that the starting date for the new rent specified in the Landlord's notice would cause the Tenant undue hardship.

### **Determination**

- 28. The Tribunal therefore decided that the rent at which the subject property might reasonably be expected to be let in the open market by a willing Landlord under the terms of this assured tenancy was £950 per month.
- 29. The Tribunal directed that the new rent of £950 per month should take effect from 29<sup>th</sup> May 2022, this being the date specified in the notice.

**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 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](mailto: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.