



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

Case Reference : **CHI/29UL/MNR/2022/0075**

Property : **80 Wood Avenue
Folkestone
Kent
CT19 6JN**

Landlord : **Mr J Li**

Representative : **None**

Tenant : **Mr M & Mrs N Savva**

Representative : **None**

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 : **27th July 2022**

DECISION

Summary of Decision

1. On 27th July 2022 the Tribunal determined a market rent of £975 per month to take effect from 19th July 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 14th June 2022 the Landlord served a notice under Section 13(2) of the Housing Act 1988 which proposed a new rent of £975 per month in place of the existing rent of £900 per month to take effect from 19th July 2022. The notice complied with the legal requirements.
4. On 23rd June 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 7th July 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 had been copied to the other party.
8. No objection having been received from either party, the Tribunal determined the case on 27th July 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 with tunnel access to the rear, situated in a row of similar properties within a residential area on the eastern side of Folkestone. There is a full range of standard amenities within the town.
10. The accommodation includes a Living Room, Kitchen, Conservatory, three Bedrooms and a Bathroom with WC. There are gardens to front and rear. Parking appears to be on-street only.
11. The property has an Energy performance rating of 'D'.

Submissions

12. The initial tenancy began on 7th October 2017, but it seems that the property was sold to Mr Li, the present landlord, on 19th December 2018.

13. The Tenants refer to a number of repair issues with the property including a leak from the Bathroom to the Kitchen below, mould growth, damaged bath sealant, old windows allowing rain to enter, a leaking Conservatory and old electrical wiring. They also state that there is no double glazing, that they provide the curtains and white goods and there is no off-street parking, permit parking or private gardens.
14. The Tenants list repairs that have been carried out in the past by the Landlord or by them, some at the Landlord's expense. They also provided internal and external photographs of the property with notated defects.
15. The Tenants also list items of disrepair or defects in the property including black mould growth, dated bathroom fittings, a defective heater in the Living Room and broken garden gates and fencing.
16. The Tenants provide evidence of other properties available to rent in the area from £1,200 per month to £1,425 per month.
17. The Landlord states that the property has gas-fired central heating, double glazed windows and that carpets, curtains, washing machine and cooker are all provided. The Tenants provide a fridge. He also states that there is off-street parking and on-street permit parking
18. The Landlord states that new front and rear gardens were done in 2020 and lists a number of repairs carried out between February 2019 and June 2021.
19. The Tenants have complained about internal damp issues. The Landlord states that the Local authority has inspected the property but found nothing wrong. He provided the Tribunal with a damp survey report which identifies condensation as the main damp problem.
20. The Landlord also provided details of other properties available to rent in the area for between £1,200 per month and £1,425 per month.

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

21. 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, particularly the photographs provided by the Tenant, it decided that it could do so.

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 are not relevant to this issue.
23. The Tribunal could not see from the photographs provided whether the windows are double glazed as claimed by the Landlord, or not, as claimed by the Tenant, although it seems from the photographs and information provided that many of the windows leak.
24. The Tribunal could not firmly establish whether there is off-street parking or on-street permit parking but decided that other properties in the area offering comparable evidence would likely have similar parking difficulties.
25. Having carefully considered the representations from the parties and associated correspondence and using its own judgment and knowledge of rental values in the Folkestone 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 £1,200 per month.
26. However, the property is not let in a condition that would command such a rent and adjustments need to be made to this 'open market' rent to take account of the Tenant's provision of some white goods, dated Kitchen and Bathroom fittings and the general condition which included dampness, mould, rain penetration, defective windows and general lack of maintenance.
27. Using its experience the Tribunal decided that the following adjustments should be made:

Tenant's provision of some white goods	£20
Damp issues causing mould growth	£30
Poor bathroom fittings	£50
General disrepair and dated decorations	£100
Broken or missing gates/fences	£25

TOTAL	£225 per month

28. 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

29. 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 £975 per month.
30. The Tribunal directed that the new rent of £975 per month should take effect from 19th July 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 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.