



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

**Case Reference** : **CHI/00HE/MNR/2022/0030**

**Property** : **16 Connoc Close  
Liskeard  
Cornwall  
PL14 3UY**

**Landlord** : **LiveWest Homes Ltd**

**Representative** : **None**

**Tenant** : **Ms A Ovonlen-Jones**

**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** : **27<sup>th</sup> July 2022**

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**DECISION**

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## **Summary of Decision**

1. On 27<sup>th</sup> July 2022 the Tribunal determined a market rent of £184.62 per week to take effect from 4<sup>th</sup> April 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 25<sup>th</sup> February 2022 the Landlord served a notice under Section 13(2) of the Housing Act 1988 which proposed a new rent of £107.33 per week in place of the existing rent of £103.11 per week to take effect from 4<sup>th</sup> April 2022. The notice complied with the legal requirements. In addition, the communal service charge was reduced to £1.35 per week.
4. On 22<sup>nd</sup> March 2022 the Tenant applied to the Tribunal under Section 13(4) (a) of the Housing Act 1988.
5. Within the Application the Tenant asked the Tribunal to consider the amount of the variable service charge, to add her son to the tenancy agreement and to make an order granting her the right to acquire the property.
6. The Coronavirus pandemic and considerations of health have caused a suspension of inspections and Tribunal hearings in person until further notice.
7. The Tribunal issued Directions on 6<sup>th</sup> 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.
8. Both parties submitted papers setting out their respective cases which were copied to the other party.
9. As neither party objected to the Directions the Tribunal determined the case on 27<sup>th</sup> July 2022. based on the documents received and without an oral hearing.

## **The Property**

10. From the information given in the papers and available on the internet the property comprises a 2-storey semi-attached house built in 1996 of brick elevations beneath a tiled roof, situated at the corner of Connoc Close and Leskerret Road, on the southeast side of Liskeard. All main amenities are available within the town.
11. The accommodation includes a Living Room, Kitchen, WC, 2 double Bedrooms, a Boxroom and Bathroom with WC. Outside there are

gardens to front and rear and an off-street parking space. The property has gas-fired central heating.

12. There are some communal lawn areas which are maintained by the Landlord who then raises a service charge against the property. The initial tenancy began on 23<sup>rd</sup> March 1997.
13. The Tribunal was unable to locate an Energy Performance Certificate for the property.

### **Submissions**

14. The Landlord provided a list of scheduled replacements to the fabric which do not commence until 2026 except for the kitchen, which was replaced in April 2017, and also provided some photographs of the property.
15. The Landlord also details that the rent charged is a social rent subject to increases in line with inflation. There is a small weekly service charge of £1.35 per week. The rent is charged for 48 weeks per annum. Within its submission to the Tribunal the Landlord provided details of two comparable properties available on the open market with asking rents of £875 per month and £900 per month. These equate to £202 per week and £208 per week.
16. The Tenant states that the Boiler is inefficient, a repair is needed to the kitchen floor, radiators are rusty, stairs are creaky, there are cracks on the stairway walls, the electrical wiring is deficient as it is 25 years old, the flooring to the kitchen and bathroom is peeling and some of the fencing needs replacement or repair.
17. The Tenant asks the Tribunal to compare her rent and the service charge against rents for other social housing, and that the rent be reduced to the rent last decided in 2015.
18. With her submission in respect of the rent the Tenant included an application form under s27A of the Landlord and Tenant Act 1985 regarding the reasonableness of service charges and a further application form for an order under s20C of the Landlord and Tenant Act 1985 which would exclude the Landlord from including the costs of any proceedings within a service charge.
19. The Tenant also asks the Tribunal to rule that her tenancy is an Assured Shorthold Tenancy, that the variable service charge is an addition to her original tenancy, that the Tenant's son should be made a joint tenant and that the Tribunal should make an order granting the Tenant a right to acquire the property.
20. The Tribunal was provided with a blank sample tenancy agreement which describes the tenancy as an Assured Tenancy and requires the Tenant to pay rent and service charge.

**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 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. This rent is normally above any rent charged by a social landlord, such as the Landlord in this case. Rents charges within the open market are normally on a monthly basis. The personal circumstances of the Tenant are not relevant to this issue.
- 23. The Directions issued by the Tribunal on 6<sup>th</sup> July 2022 were specific in that this the Tribunal is only considering a market rent for the property under s13 and s14 of the Housing Act 1988. The Tribunal has considered the information within the additional application forms in so far as they affect the market rent.
- 24. The original tenancy agreement was an Assured Shorthold Tenancy for a fixed period. The Tenant continued to occupy the property after the end of the original tenancy period, in which case it automatically became an Assured Periodic Tenancy.
- 25. Having carefully considered the representations from the parties and associated correspondence and using its own judgment and knowledge of rental values in the Liskeard 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 £900 per month which would equate to £208 per week, payable for 52 weeks in the year.
- 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, carpets and curtains. The Tribunal did not consider that it should make any deductions for the other issues raised by the Tenant which the Tribunal considers to be fair wear and tear.
- 27. Using its experience the Tribunal decided that the following adjustments should be made:

Tenant's provision of some white goods	£30
Tenant's provision of carpets	£30
Tenant's provision of curtains	£20
	—————
TOTAL	£100 per month

28. The Tribunal considered that the service charge of £1.35 per week, which is variable, is reasonable.
29. 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**

30. 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 £800 per month which equates to £184.62 per week.
31. It should be noted that the rent proposed by the Landlord is considerably lower than the open market rent, but the Landlord is not compelled to charge this higher rent.
32. This Tribunal does not have jurisdiction to make an order to add the Tenant's son as a joint tenant or to make an order granting a right to acquire.
33. The Tribunal directed that the new rent should take effect from 4<sup>th</sup> April 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.