



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

Case reference : **CAM/OOMC/F77/2022/0009**

HMCTS code : **A:BTMMREMOTE**

Property : **15D Penn Road, Beaconsfield, HP9
2PN**

Applicant (Tenant) : **Richard Magnos Fernades Harper**

Respondent (Landlord) : **W E Black Ltd and Three Rivers
Investment Ltd**

Type of application : **Determination of a Market Rent:
Sections 13 and 14 Housing Act
1988**

Tribunal members : **Mr P Roberts FRICS CEnv**

Date of Determination : **25 August 2022**

DECISION

This has been a remote determination on the papers which the parties are taken to have consented to, as explained below. The form of determination was a telephone hearing described above as A:BTMMREMOTE. The documents that the Tribunal was referred to are in bundles from the Applicant and the Respondent. The Tribunal has noted the contents and the decision is below.

Decision

The Tribunal determined a market rent of £1,575 per calendar month effective from 29 July 2022.

Reasons

Background

1. On 12 May 2022 the Landlord served notice under section 13 (2) of the Housing Act 1988 to increase the passing rent from £1,200 per month to £1,300 with effect from 29 July 2022.
2. This rent is stated to be exclusive of Council Tax, Water Charges and fixed service charges.
3. The Tenant made an application to the Tribunal in reliance on section 13 (4) of the Housing Act 1988 on 4 June 2022.
4. The Tribunal issued directions on 13 June 2022, inviting the Parties to submit any further representations (including any photographs and details of rentals for similar properties) they wished the tribunal to consider.
5. The Landlord requested a telephone hearing which was held on 18 August 2022.

The Property

6. The Tribunal has not inspected the Property and has relied upon the papers provided by the Parties together with Google Images and oral descriptions provided during the hearing.
7. The Property is a mid-terraced two-storey maisonette located over a shopping parade located on Penn Road which is a main thoroughfare through Beaconsfield. The accommodation comprises three bedrooms with a kitchen, bathroom and living room. There is a private car park at the rear albeit spaces are not allocated and a private terrace which is also located at the rear.
8. The Tribunal understands that all carpets, curtains and white goods belong to the Landlord.
9. The Tribunal notes that the EPC banding is E effective from 10 June 2020 and that the assumed floor area extends to 87 square metres. It appears that the assessor's main concern comprised an assumed lack of insulation in the roof.
10. The Tribunal also notes that the Property has been placed in Council Tax C.

The Tenancy

11. The Tenant occupied the Property by virtue of an Assured Shorthold Tenancy that commenced 29 July 2020 and expired 28 July 2021.
12. In the absence of a new Tenancy being entered into, an Assured Periodic Tenancy has arisen such that Sections 13 and 14 of the Housing Act 1988 apply.

The Law

13. Section 14 of the Housing Act 1988 (the 1988 Act) provides that the Tribunal is required to determine the rent at which the Property might reasonably be expected to let in the open market by a willing landlord under an assured tenancy:
 - a. *“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 rent) are the same as those of the existing tenancy.”*
14. Section 14 (2) of the Act requires the Tribunal to disregard
 - 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 (as defined by section 14 (3) of the Act) otherwise than as an obligation;*
 - 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.”*
15. Examples of a tenant’s failure to comply with the terms of the lease may include, for example, a lack of redecoration.
16. Section 11 of the Landlord and Tenant Act 1985 (the 1985 Act), provides that the Tribunal is to imply a covenant by the Landlord:
 - a. *“to keep in repair the structure and exterior of the dwelling-house (including drains, gutters and external pipes),*
 - b. *to keep in repair and proper working order the installations in the dwelling-house for the supply of water, gas and electricity and for sanitation (including basins, sinks, baths and sanitary conveniences, but not other fixtures, fittings and appliances for making use of the supply of water, gas or electricity), and*

c. *to keep in repair and proper working order the installations in the dwelling-house for space heating and heating water.”*

17. Section 14 (7) of the 1988 Act states:

“Where a notice under section 13(2) above has been referred to the appropriate tribunal, then, unless the landlord and the tenant otherwise agree, the rent determined by the appropriate tribunal (subject, in a case where subsection (5) above applies, to the addition of the appropriate amount in respect of rates) shall be the rent under the tenancy with effect from the beginning of the new period specified in the notice or, if it appears to the appropriate tribunal that that would cause undue hardship to the tenant, with effect from such later date (not being later than the date the rent is determined) as the appropriate tribunal may direct.”

Representations – The Tenant

18. The Tenant did not attend the hearing despite the Tribunal suspending proceedings for twenty minutes for the Tenant to make contact. The Tribunal has therefore relied solely upon the Tenant’s written representations.

19. The Tenant made the following comments in his Reply.

“Property is located above a pub/restaurant. Extremely noisy and when windows open the smell of cigarettes and occasionally cannabis enters the flat. Windows mechanisms broken, some windows do not close, photos attached. Reported at beginning of tenancy. Kitchen worktop and cupboard damaged by plumber sent by landlord on an occasion to unblock sink. Hob not fully functional. Shower – very low water pressure. Have to shower crouched down. No pressure or flow at head height.”

20. The Tenant submitted photographs and copies of additional correspondence regarding issues arising at the Property.

21. No evidence of asking or achieved rents was provided by the Tenant.

Representations – The Landlord

22. Mrs Williams attended the hearing on behalf of the Landlord. The Landlord had also made written submissions.

23. The Tribunal was advised that the Tenant had served notice on the 20 July 2022 advising that he was vacating and relocating to another property with effect from 29 August 2022.

24. Mrs Williams referred the Tribunal to photographs of the Property taken prior to occupation by the Tenant. In addition, whilst there was evidence of disrepair at the Property it was understood that this was capable of being addressed.

25. All fixtures and fittings were stated to belong to the Landlord.
26. Mrs Williams advised that the proposed increase was below market rental levels and that, now that the Tenant had vacated, she expected to achieve a rent in excess of £1,500 pm.
27. She advised that 15C had been let to students on a discretionary rent basis of £1,375 pm with effect from January 2022 and 19C, which had recently been let at £1,500 in August 2021 has been let on the basis of £1,600 pm with effect from 2 September 2021.
28. In addition, the Tribunal noted that a three-bedroom duplex apartment located on the corner of Burkes Road and the B474 was advertised as having been let at £1,650 pm. Mrs Williams was familiar with this property and considered that it was a good comparable.

Determination

29. In determining the market rent, the Tribunal has regard to prevailing levels of rent in the general locality and achieved rental values in respect of other properties of comparable accommodation and provision that would be likely to be considered by a prospective tenant. The current rent and the period that has passed since that rent was agreed or determined is not relevant.
30. The legislation requires the Tribunal to have regard to market demand assuming that the landlord is willing. The Tribunal is therefore unable to have regard to the personal circumstances or identities of the actual landlord and tenant in assessing the level of rent.
31. The Tribunal notes the comments made by the Tenant but failures on the part of the Landlord or Tenant to comply with the terms of the lease have to be disregarded in setting the level of rent.
32. The Tribunal considers that the rent proposed to the Tenant by the Landlord is conservative and the market rental, having regard to the statutory assumptions would be in the region of £1,575 pm.
33. The Tribunal therefore determines the market rental of the Property with effect from **29 July 2022 at £1,575 per calendar month.** The rent payable may not, therefore, exceed this figure. However, this does not prevent the Landlord from charging a lower figure.

Name: Peter Roberts FRICS CEnv

Date: 25 August 2022

Rights of appeal

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber), then a written application for permission must be made to the First-tier Tribunal at the regional office which has been dealing with the case.

The application for permission to appeal must arrive at the regional office within 28 days after the tribunal sends written reasons for the decision to the person making the application.

If the application is not made within the 28-day time limit, such application must include a request for an extension of time and the reason for not complying with the 28 day time limit; the tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed, despite not being within the time limit.

The application for permission to appeal must identify the decision of the tribunal to which it relates (i.e., give the date, the property and the case number), state the grounds of appeal and state the result the party making the application is seeking.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).