



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

**Case reference** : **CHI/00HB/MNR/2022/0081**

**Property** : **19 Tibbott Walk, Bristol, BS14 8DR**

**Applicant Tenant** : **Mr J Devonald**

**Respondent Landlord** : **Mrs V Buchanan**

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

**Tribunal member(s)** : **Mrs J Coupe FRICS (Chairman)  
Mr S Hodges FRICS  
Mr N Robinson FRICS**

**Date of decision** : **5 September 2022**

---

**DECISION**

---

© CROWN COPYRIGHT

### **Covid-19 pandemic: Description of determination**

This has been a remote determination on the papers which has been consented to by the parties. A face-to-face hearing was not held because it was not practicable and all issues could be determined in a remote determination on papers. The documents that the Tribunal were referred to are in an electronic bundle, the contents of which have been noted. The order made is described below.

### **Decision of the Tribunal**

**On 5 September 2022 the Tribunal determined a Market Rent of £1,092.50 per calendar month to take effect from 5 August 2022.**

### **Background**

1. By way of an application received by the Tribunal on 12 July 2022, the Applicant tenant of 19 Tibbott Walk, Bristol, BS14 8DR ('the Property'), referred a Notice of Increase in Rent ('the Notice') by the Respondent landlord of the property under Section 13 of the Housing Act 1988 ('the Act') to the Tribunal.
2. The Notice, dated 20 June 2022, proposed a new rent of £995.00 per calendar month, in lieu of the passing rent of £795.00 per calendar month, to take effect from 5 August 2022.
3. The tenant occupies the Property under an Assured Shorthold Periodic Tenancy commencing 5 January 2018. A copy of the tenancy agreement was provided.
4. On 18 July 2022, the Tribunal issued Directions advising the parties that it considered the matter suitable for determination on papers unless either party objected, in writing, within 7 days. The parties were also advised that no inspection would be undertaken. No such objections were received.
5. The Directions required the landlord and tenant to submit their completed statements by 1 August 2022 and 15 August 2022 respectively, with copies also to be sent to the other party. Submissions were filed by both parties.
6. The matter was determined having regard to the evidence contained in the application and submissions.
7. References in this determination to page numbers in the bundle are indicated as [ ].

### **Law**

8. In accordance with the terms of Section 14 of the Act, the Tribunal is required to determine the rent at which it considers the subject property might reasonably be expected to let on the open market, by a willing landlord, under an assured tenancy, on the same terms as the actual tenancy.

9. In so doing, and in accordance with the Act, the Tribunal ignores any increase in value attributable to tenants' improvements and any decrease in value due to the tenants' failure to comply with any terms of the tenancy.

### **The Property**

10. As stated, and in accord with current Tribunal policy, the Tribunal did not inspect the property, instead relying on the evidence submitted and viewing external images of the property via publicly available online portals.
11. The property is a two-storey semi-detached house situated in an established residential area, close to local amenities and public transport links.
12. Built in, or around, 1983 the house is constructed with brick cavity elevations beneath a pitched roof clad in tiles. To the direct left of the property, is a tarmac driveway suitable for parking three cars in tandem. To the rear is an enclosed garden.
13. The accommodation comprises a kitchen and reception room on the ground floor, and two bedrooms and a bathroom to the first floor.
14. The property has gas fired central heating and double glazing, both provided by the landlord.
15. With the exception of the cooker, the white goods are provided by the tenant, as too are the curtains. Carpets and floor coverings are supplied by the landlord.
16. No service charges or charges for utilities are included in the rent.

### **Submissions – Tenant – (summarised)**

17. The predominant issue raised by the tenant in his submissions was the, alleged, poor condition of the property. The tenant considered the landlord to be "*failing on her legal obligation*" [63] to maintain the standard of accommodation and stated that he expects "*the property to be maintained in a liveable condition.*" [63]. The tenant states that the landlord fails to inspect the property on a regular basis, and that management and repairs are carried out by the landlord on an adhoc and reactive, as opposed to proactive, basis.
18. In support of his assertion, the tenant cites a list of repairs completed by the landlord's contractors and suggests that such works could have been avoided had the property been better maintained. The repairs, completed by the landlord between June 2020 and July 2022, included [58]:
  - New fascia installation;
  - Repair of a boiler pipe leak;
  - Faulty shower replacement;
  - Faulty front door replacement;
  - 3 windows repaired;
  - Dislodged roof tile replacement;

- Internal cracks filled with sealant.
19. The tenant asserts that due to a combination of poorly fitting windows and frames [59], inadequate repairs [61], and deficient sealing of the loft hatch, the property suffers from dampness and mould growth in the majority of rooms. A series of photographs showing black staining to ceiling corners and to the underside of the loft hatch, were included within the bundle [60-62].
  20. The tenant suggests that the roof is in need of replacement; an opinion proffered by a roofing contractor engaged to attend to a previous disrepair. [61].
  21. The tenant advises that the kitchen and bathroom fittings are in excess of 10 years old.
  22. Both the tenant and the landlord make a number of statements concerning the behavior and intentions of the other party. With the exception of one, none of these are relevant to the Tribunal's determination of market value and, accordingly, will be not be addressed in these reasons.
  23. The one exception is the landlord's claim that the property is over occupied which, in her opinion, is contributing to, or causing, the internal dampness and mould. The tenant disputes this opinion and, in response, considers the number of occupants, that being two adults and three children, as inconsequential to the issues raised [69].
  24. The tenant repeatedly asserts that he is not objecting to the proposed rent per se but that his objections are based upon his assertion that the house fails to meet the standard and condition of a modern open market rental property. At [63] he writes "*I have a full-time job and I am not objecting to the amount of rent but expect the property to be maintained in a liveable condition*"; whilst at [66] the tenant writes "*... as previously stated I have no objections to the rent increase, although 25% increase in one go is excessive, but the issue has always been the condition of the property.*" In his summary [67] the tenant states "*... throughout all of the above I am not objecting to the rent increase providing the standard of repair/living is brought up to an acceptable living standard.*"
  25. At [67] the tenant commented, within an email discussion with the landlord, that "*An increase of 25%, when cost of living has also risen by 8% recently, is another reason for disputing your proposed rise.*"
  26. The tenant submits that an appropriate rental value, reflecting the property's current condition, is £875.00 per month. In support of his opinion the tenant provides three comparable lettings, advertised at asking prices of between £800.00pm - £1,100.00pm. Each comparable is a two bedroom end-terraced house, which, the tenant advises, is in a good condition and includes a garage. No explanation is provided as to the reasoning behind the £300.00 difference between the lowest and highest asking price.

27. In concluding, the tenant requested that, should the Tribunal find in the landlord's favour, any rental increase is effective from the date of determination [67].

### **Submissions – Landlord**

28. The landlord states that the rent has not increased since the tenant signed the assured shorthold tenancy, as a single occupier, over four years previously. She asserts that during the intervening period rental values have risen, her costs of maintenance have increased and that the occupation of the house by five tenants is now causing greater wear and tear on the fittings. She indicates that a rental increase was planned shortly prior to the outbreak of the COVID-19 pandemic but that she refrained from increasing the rent whilst the country went into lockdown and so as to avoid hardship for the tenant.
29. The landlord lists a number of repairs carried out to the property since 2018 including new garden fencing and installation of a side access gate; replacement front door; window draught proofing; replacement shower; replacement window handles; replacement soffit and fascia boards; repairs to the roof, boiler and internal pipework repairs. None of which are disputed by the tenant.
30. The landlord considers the kitchen and bathroom, fitted approximately twelve years ago, to be a “*good working order*”, whilst the kitchen is “*of a high specification.*” [51].
31. The landlord states that an Environmental Health Housing Officer (EHHO) inspected the property in May 2022 in response to the tenants' complaint of dampness and mould. The landlord considers that her own opinion, that being that overcrowding of the property is causing condensation dampness, is borne out by the EHHO's letter of 27 May 2022 [71-72] and the EHHO's decision not to take any further action in the matter.
32. The landlord considers the property to provide inadequate accommodation for a family of five and that the tenant's living circumstances are contributing to, or causing, the condensation dampness presenting as mould on internal surfaces. She asserts that her advice to the tenant, including improving ventilation by opening windows and refraining from drying clothes inside or venting the tumble dryer internally, is not heeded.
33. In proposing the revised market rent of £995.00/month the landlord advises that she consulted “*websites like zoopla to check the values of properties in the area*” [53] from which she ascertained that the market value fell within a range of £1,050.00 - £1,400.00. She found the average asking price, for a similar two bedroom semi-detached house, was £1,150.00, whilst locally such properties were commanding rents in the region of £1,350.00.
34. The landlord's Notice of Increase of Rent was issued with a proposed rent of £995.00 per month. However, in her written submissions [53], the landlord requested that the Tribunal determine a market value of £1,195.00 per

month in line with comments in paragraph 33 above. No comparable market lettings evidence, in support of such value, was submitted.

## **Determination**

35. The Tribunal determines a market rent for a property by reference to rental values generally and to the rental values for comparable properties in the locality in particular. It does not take into account the present rent and the period of time which that rent has been charged, nor does it take into account the percentage increase which the proposed rent represents to the passing rent. In addition, the legislation makes it clear that the Tribunal cannot take into account the personal circumstances of either the landlord or the tenant.
36. The Tribunal assesses the rent for the property as at the date of the landlord's Notice and on the terms of the extant tenancy. The Tribunal disregards any improvements made by the tenant, but takes into account the impact on rental value of disrepair which is not due to a failure of the tenant to comply with the terms of the tenancy.
37. In determining the rent, the Tribunal has regard to any evidence supplied by the parties and the Tribunal's own general knowledge of market rental levels in the wider area.
38. The Tribunal considers the property to be well situated in terms of local amenities and public transport.
39. Having consulted the National Energy Performance Register online, the Tribunal noted the property to have an Energy Performance Certificate (EPC) Rating of C, and a recorded floor area of 60m<sup>2</sup>.
40. In determining the market rent, the Tribunal has regard to whether the property meets the standard of accommodation, repair and amenity of a typical modern letting.
41. The tenant appears to, repeatedly, accept that the proposed rent is indicative of the current open market rent. Where the tenant differs from the landlord, is in his opinion of condition, suggesting that the existence of dampness and mould within the property, in addition to the need for a replacement roof, a lack of general maintenance, and a reactive approach to maintenance by the landlord, cumulatively warrant a reduction in the open market rent to £875.00 per month.
42. In determining the condition of the property, the Tribunal first considered the issue of dampness and mould.
43. Photographs within the bundle clearly show areas of black mould to cold spots, such as where ceiling and floor joists meet, in addition to mould and staining of the underside of the loft access hatch.

44. Further to a complaint lodged by the tenant with Bristol City Council, an EHHO inspected the property on the 12 May 2022, following which the officer wrote to the landlord on the 27 May 2022, advising her of certain works, including a suggestion to investigate the source of draughts and carry out any associated remedial works; to investigate the condition of windows; to draught proof the front door; to ensure loft insulation complies with Building Regulations and that the roof void is adequately ventilated; and to hang a kitchen door. However, despite these suggestions the EHHO determined that the tenant's complaint did not fall within the remit of their legal powers and, therefore, that "*no further action will be taken on the above matters.*" [71].
45. The number, or identity, of tenants within a property is generally immaterial to a Tribunal's determination of market rent. However, in this instance, and when considering the issue of dampness, the Tribunal had regard to the living circumstances of the occupiers and whether the issues raised had, in any way, been caused or contributed to by the number of occupiers. In this regard, the Tribunal considers that the property is, in all likelihood, overcrowded; a finding also made by the EHHO in his letter of 27 May 2022, where he states "*During my inspection of the above premises, I identified the hazard of Crowding & Space and have assessed the severity of risk of harm from the overcrowded occupation as being within band D.*" [72].
46. The Tribunal finds the evidence of the EHHO, who had the benefit of an inspection of the property, compelling. The EHHO wrote to the landlord with recommendations but deemed no further action necessary. Within the same letter the EHHO also identified a Category 2 hazard of overcrowding. The Tribunal, using their expert knowledge as Chartered Surveyors, considers that two adults and three children living within a two bedroom house is likely to lead to overcrowding, which, if not adequately addressed through ventilation and heating, could, in all likelihood, result in condensation dampness, presenting as mould, particularly to cold spots such as wall and ceiling junctions, and loft hatches.
47. The Tribunal notes that the tenant made no complaint of dampness or mould issues in the early years of the tenancy, when he had sole occupancy of the property.
48. The Tribunal therefore finds that the condensation dampness and mould spots are likely effects of overcrowding of the property and, accordingly, the Tribunal make no rental deduction in this regard.
49. The tenant provided three comparable letting adverts by way of evidence of market values, ranging in asking price from £800.00 - £1,100.00 per month. Each comparable was a two bedroom end-terraced house. Unfortunately, no further information such as the quality of accommodation and fittings, general condition, gardens, parking/garage, or provision of white goods was provided, meaning an effective analysis by the Tribunal was impracticable. However, the Tribunal noted that each comparable was an end-terraced house whereas the subject property is a semi-detached house which, typically, would command a higher value. From their own expert knowledge of the city of Bristol and its surrounds, the Tribunal concluded that the locations of St George and Paybridge Road

were generally less sought after, and hence less valuable, than the subject property locality. Accordingly, although the Tribunal had regard to the tenants' comparables, significant weight could not be attributed to such evidence.

50. The Tribunal, acting as an expert Tribunal, and having regard to its own specialist knowledge, determined that the rent which the property could be expected to achieve on the open market, assuming it to be in a condition and state of modernisation considered usual for such a letting, would be £1,150.00 per calendar month.
51. For reasoning explained in paragraphs 46-48 above, the Tribunal declines to make any deduction for the condition of the property, instead finding the kitchen and bathroom to be of an acceptable standard and the damp and mould issues likely to be as a result of condensation due to overcrowding. Furthermore, the Tribunal finds there to be no dispute that, when notified, the landlord addresses disrepair, evidenced by the list of remedial works provided within the submissions of both the tenant and landlord.
52. The landlord has proven willing and able to carry out repairs when notified and the Tribunal is mindful that a landlord's right, and obligation, to inspect a tenanted house must be balanced against a tenant's entitlement to quiet enjoyment of their home.
53. It is common ground between the parties that, with the exception of the cooker, the white goods and curtains are provided by the tenant. Accordingly, the Tribunal makes a deduction of 5% from the hypothetical open market rent to reflect such differences.
54. Deducting a total of 5%, the Tribunal arrived at, and hereby determines, an adjusted Market Rent of £1,092.50 per calendar month.
55. The rental figure determined by the Tribunal exceeds that proposed by the landlord. Such figure is the maximum rent payable. The landlord is under no obligation to charge the full amount.
56. At [67] the tenant requested that any increase in rent is effective from the date of the Tribunal's determination, as opposed to the date within the landlord's Notice. However, the tenant provided no evidence of hardship. Included within the tenant's submissions, was a reference to the tenant being in full time employment [63]. Accordingly, the Tribunal finds no grounds of hardship to be made out and therefore determines that the rent of £1,092.50 will take effect from 5 August, that being the date stipulated within landlord's 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 by email to [rpsouthern@justice.gov.uk](mailto:rpsouthern@justice.gov.uk) to the First-tier Tribunal at the Regional office which has been dealing with the case.
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.