



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

Case Reference : **CHI/45UF/MNR/2022/0087**

Property : **Flat 9, Denne Park House, Denne Park,
Horsham, West Sussex RH13 0AZ**

Applicant : **Ms L Westerman (Tenant)**

Respondent : **Mr R Dye (Landlord) c/o Cubitt and West**

Date of Application : **Received 27th July 2022**

Type of Application : **Sections 13 and 14 of the Housing Act 1988**

Tribunal : **Mr R T Brown FRICS Chairman
Mr C Davies FRICS ACI Arb
Mr P Smith BSc FRICS**

Date : **8th September 2022**

REASONS FOR DECISION

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Background

1. The Tribunal gave formal notice of its decision by a Notice dated 8th September 2022 that the rent will be **£1,550.00 plus £100.00 for oil (£1,650.00) per calendar month (pcm)** with effect from 23rd August 2022.
2. By an application received on 27th July 2022, the Tenant of the above property referred a notice of increase in rent served by the landlord under section 13 of the Housing Act 1988 to the Tribunal.
3. The landlord's notice dated the 11th July 2022 proposed a rent of **£1,550.00 plus £100.00 for oil (£1,650.00) pcm** with effect from 23rd August 2022, in place of the current rent of £1,350.00 plus £100.00 for oil (£1,450.00) pcm.
4. The tenancy is an assured shorthold tenancy. The tenancy agreement is in common form and commenced on 23rd July 2018. The tenancy is subject to the Landlord's repairing obligations defined in Section 11 the Landlord and Tenant Act 1985.

Property and Inspection

5. Following the Directions dated 5th August 2022 and the explanation contained therein, the Tribunal did not inspect the premises.
6. Extracting such information as it could from the papers supplied to the Tribunal by the parties, by reference to information publicly available on the internet and with the benefit of its knowledge and experience the Tribunal reached **the following conclusions and found as follows:**
7. The property is located in 13 acres of its own garden and located between Horsham and Southwater.
8. The property comprises a centrally heated, single glazed, second floor flat in a Grade II listed building.
9. The accommodation, set over 2 floors, comprises: Living/dining room, study, kitchen, bathroom, W.C and 3 bedrooms. Outside: Communal gardens and garage.
10. The property is let unfurnished with floor coverings, curtains, cooker, fridge and washing machine.
11. The Tribunal assumed that all mains services (except gas) are connected.

Documents supplied to and considered by the Tribunal

12. Tribunal Directions.
13. Landlord: Tribunal Reply Form.
14. Tenant: Application Reply Forms, Notice of Increase and Tenancy Agreement and Building Surveyor's report.

Landlord's Representations (summarised):

15. The Landlord says in the Reply Form and attachments:
- a) The Landlord pays the service charge to Denne Park House Management Ltd. The amount in respect of the oil is £266.00 pcm more than the Tenant is currently contributing.
 - b) Overall the property is in good repair. There are signs of wear and tear. Various rooms have been redecorated since the property was first let in 2007.
 - c) The kitchen and bathroom fittings were installed in 2007 and are in good condition in relation to their age.
 - d) Conversion into flats took place in 1960. 12 flats in total set in 13 acres of communal gardens.
 - e) Christ's Hospital and Horsham train station is within 2 miles. Access to London in about 1 hour. Bus stop into Horsham at bottom of the drive.
 - f) The damp mould in bedroom 2 referred to by the Tenant has been repaired by the Management company. During the period of disrepair a rent allowance was made.
 - g) As to the Tenant's reference to flies, the windows are old Crittall type single glazed and it is not unusual for flies and ladybirds to shelter in these frames.
16. As to rental value the Landlord says the original tenancy agreement commenced in July 2018 and the rent of £1,350.00 plus £100.00 for oil there has been not been increased since commencement.
17. Comparable evidence:
Flat 10: Comparable but smaller flat (1269 sq ft) 3 bedrooms (and study) let in April 2021 £1550.00 pcm (excluding oil). Zoopla estimate current rent £1,850.00pcm.
Flat 9: (1,600 sq ft) Zoopla estimate current rent £1,990.00 pcm.
Both flats are let on similar unfurnished terms.

Tenant's Representations (summarised)

18. The Tenant says in the Application and Reply Forms:
- a) Photographs of damp mould and old critall type window frame.
 - b) Roof renovation was completed in June 2022. A rent reduction was in place until repairs completed.
 - c) The property is overall in good condition other than damage by long term damp penetration.
 - d) There is still a fly infestation in Bedroom 2.
 - e) As to the proposed rent the Tenant is willing to pay £1,450.00 (including oil) pcm.

The Tribunal's Deliberations

19. The Tribunal found as a matter of fact that the notice was a Notice under section 13 as prescribed by Statute.
20. 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 or Landlord are not relevant to this issue.

21. The Tribunal checked the National Energy Performance Register and noted that the subject property has a certificate registering the property at F expiring 9th August 2032. The legal minimum standard for letting a property is rating E.
22. Based on the knowledge of its members the Tribunal finds that the market for this type of property is very sensitive to condition and inventory.
23. The Tribunal, acting as an expert tribunal, determined what rent the landlord could reasonably be expected to obtain for the subject property in the open market if it were let today in the condition and subject to the terms of such a tenancy that is considered usual for such an open market letting. It did this by having regard to the evidence supplied by the parties and the Tribunal's own general knowledge of market rent levels. Having done so, it concluded that such a likely market rent for a similar modernised property in fair condition with modern central heating, modern bathroom and kitchen facilities, floor coverings, cooker, washing machine and an EPC Rating of E or above would be **£1,550.00 plus £100.00 plus oil (£1,650.00) pcm.**
24. The Tribunal, after careful consideration of the current market conditions and the apparent condition (as submitted by the parties) of the subject property determined to make no deductions for issues identified.
25. Accordingly, the Tribunal determined that the market rent for the subject property is **£1,550.00 plus £100.00 plus oil (£1,650.00) pcm.**
26. The rent will take effect from 23rd August 2022 being the date specified by the landlord in the notice of increase.

Relevant Law

27. Sections 13 and 14 of the Housing Act 1988.
28. Assured Tenancies and Agricultural Occupancies (Forms) (England) Regulations 2015 (SI 2015 No.620)

RIGHTS OF APPEAL

1. A person wishing to appeal this decision (on a point of law only) 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.