



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

Case Reference : **CHI/29UK/MNR/2022/0083**

Property : **2 Rose Terrace
Gills Road
South Darenth
Dartford
Kent
DA4 9LE**

Landlord : **South Darenth Farms & Cold Store Co Ltd**

Representative : **Ms R Sly**

Tenant : **Ms E Chester**

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 F Donaldson FRICS MCI Arb MAE
Mrs A Clist MRICS**

Date of Inspection : **None. Paper determination**

Date of Decision : **7th September 2022**

DECISION

Summary of Decision

1. On 7th September 2022 the Tribunal determined a market rent of £1,250 per month to take effect from 27th 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 17th May 2022 the Landlord served a notice under Section 13(2) of the Housing Act 1988 which proposed a new rent of £1,500 per month in place of the existing rent of £1,200 per month to take effect from 27th July 2022. The notice complied with the legal requirements.
4. On 15th July 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 28th 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. The papers were also copied to the other party.
8. As stated in the Directions, as no objection was received from either party, the Tribunal determined the case on 7th September 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 a semi-detached house built of brick elevations beneath a tiled roof, one of 4 houses in a rural setting on the South Downs, some 5½ miles southeast of Dartford.
10. The property is situated in a narrow country lane with no public transport available. All amenities are some miles distant.
11. The accommodation provides a Living Room, Dining room, Kitchen and Utility Room at ground floor level. At first floor level there are 3 Bedrooms and a Bathroom with WC. Outside there are gardens and off-road parking.
12. The accommodation has gas-fired central heating and double-glazed windows. The Energy Performance Rating is 'E'

Submissions

13. The Tenancy began on 27th October 2017 at a rent of £1,000 per month. The Tenant carried out improvements including the installation of new kitchen units, tiled floor to kitchen and utility, fitted carpets, curtains and blinds, fitting doors to the Bathroom and Utility that were missing, garden landscaping and fence repairs, updating the bathroom and redecoration throughout. The Tenant also provides all white goods.
14. The Landlord installed double glazing in January 2021.
15. The Tribunal was provided with photographs showing black mould growth affecting some bedrooms. Elsewhere the internal decorative condition appears to be good.
16. The Tenant also has issues with rats and drainage to a cesspit that needs to be unblocked regularly.
17. The Parties both refer the Tribunal to recent new tenancies at Number 1 Rose Terrace and number 4 Rose Terrace let for £1,550 per month and £1,575 per month following internal and external refurbishment.
18. The Landlord provided external photographs of the property, a damp report dated from 2019, a recent electrical installation certificate and a market appraisal from Your Move suggesting an open rent for the property of £1,550 to £1,600 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

- 19. 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.
- 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 parties are not relevant to this issue.
- 21. Having carefully considered the representations from the parties and associated correspondence and using its own judgment and knowledge

of rental values in the North Kent 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 £1,500 per month.

22. However, the property is not 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 white goods, carpets and curtains. Further adjustments should be made to reflect the Tenant's improvements and the issues with dampness and associated mould growth.
23. Using its experience the Tribunal decided that the following adjustments should be made:

Tenant's provision of white goods	£30
Tenant's provision of carpets	£50
Tenant's provision of blinds/curtains	£10
Tenant's improvements including fitted kitchen units	£100
Repair including mould growth.	£60
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TOTAL per month	£250

24. 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

25. 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 £1,250 per month.
26. The Tribunal directed that the new rent of £1,250 per month should take effect from 27th 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.