



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

Case reference : **CHI/19UH/MNR/2022/0096**

Property : **2 Billingsmoor Lane, Poundbury,
Dorchester, Dorset, DT1 3WT**

Applicant Tenant : **Mrs M Bermudrz-Odrizola**

Respondent Landlord : **Mr S & Mrs F Barnes-Murphy**

Landlord Representative : **Kemp & Co Property Limited**

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

Tribunal member(s) : **Mrs J Coupe FRICS
Mr MJF Donaldson FRICS MCI Arb MAE**

Date of decision : **27 September 2022**

DECISION

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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.

Decision of the Tribunal

On 27 September 2022 the Tribunal determined a Market Rent of £1,800.00 per calendar month to take effect from 6 August 2022.

Background

1. By way of an application received by the Tribunal on 5 August 2022, the Applicant tenant of 2 Billingsmoor Lane, Poundbury, Dorchester, DT1 3WT ('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 29 June 2022, proposed a new rent of £1,800.00 per calendar month, in lieu of the passing rent of £1,600.00 per calendar month, to take effect from 6 August 2022.
3. The tenant occupied the property under an Assured Shorthold Periodic Tenancy commencing 6 August 2020. A copy of the tenancy agreement was provided.
4. On 11 August 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 objections were received.
5. The Directions required the landlord and tenant to submit their completed statements by 25 August 2022 and 8 September 2022 respectively, with copies also to be sent to the other party. Submissions were filed by the Respondent landlord only.
6. The matter was determined having regard to the evidence contained in the tenant's application and submissions.

Law

7. 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.
8. 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

9. 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.
10. The property is a detached house, built in 2002 and constructed with stone and rendered elevations, beneath a pitched roof.
11. Poundbury is an urban development located on the outskirts of Dorchester which was designed as a sustainable development in the late 1980's, with local amenities, shops and open spaces within walking distance.
12. The accommodation comprises an entrance hall; kitchen; dining room; study and cloakroom with WC on the ground floor. Living room; master bedroom and ensuite bathroom; separate WC on the first floor. Three bedrooms and a bathroom on the second floor.
13. The property has a gated driveway, single garage and a private garden.
14. The property is heated by a gas fired central heating system and window units are double glazed, both provided by the landlord.
15. Carpets and blinds, and a cooker are provided by the landlord.
16. No service charges or charges for utilities are included in the rent.

Submissions – Tenant

17. The Tribunal has been provided with correspondence, dated 25 July 2022, between the Applicant tenant and Kemp & Co within which the tenant proposes a counter-offer rent of £1,675.00 per month.
18. No further submissions were filed.

Submissions – Landlord (summarised)

19. The landlord listed the following improvements carried out at their expense:
 - i. Replacement kitchen cupboard fronts (2021);
 - ii. New garage door & window frame (2020);
 - iii. New boiler (2018);
 - iv. Partial driveway gates replacement (2020);
 - v. Three rooms redecorated following a hot water tank leak; tank replaced (2022).
20. The landlord provided six comparable lettings within their written statement and a Comparables Report, dated 11 August 2022, detailing the asking prices of eleven rental properties within a three mile radius of the subject property.

21. Of the comparables within the statement, five are three and four bedroom terraced and end-terraced houses in Poundbury, with asking rentals between £1,600 - £2,000 pcm. The sixth comparable is a three bedroom end terraced house in Dorchester with an asking rental of £1,750 pcm.
22. In addition, the report listed, two terraced houses in Poundbury with asking prices of £1,450 pcm and £1,500 pcm, and three houses in Dorchester, two of which are three bedroom detached houses, each with an asking price of £1,800pm, and a four bedroom semi-detached house with an asking price of £1,650pm

Determination

23. 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.
24. 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.
25. 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. In this instance the Applicant tenant has not filed a statement or any comparable evidence for the Tribunal to consider.
26. 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 150m².
27. 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. In this instance the Tribunal determined that the subject property does meet the standard required by the market.
28. The property has gas central heating and double glazing throughout. The kitchen and bathrooms are modern and in a good condition. The Tribunal had no regard to the landlords' list of improvements, deeming these, instead, as maintenance issues as required of any good standing landlord.
29. The property is situated in a sought after area and is well located for access to further facilities within nearby Dorchester and public transport links.

30. In considering the landlord's comparable evidence the Tribunal attributed less weight to those properties located in Dorchester, considering this to be a different market to rental properties in Poundbury.
31. The landlord's evidence demonstrates asking prices in the locality to range between £1,600 pcm for a three bedroom mid-terraced house; £1,750 pcm for a four bedroom mid-terraced house; and £2,000 pcm for a three bedroom end-terraced house. The Tribunal note that these are asking prices and not agreed lettings.
32. The Tribunal, acting as an expert Tribunal, and having regard to its own specialist knowledge, determined the rent which the Property could be expected to achieve on the open market if it were in a condition and state of modernisation considered usual for such a letting would be £1,800.00 per calendar month.
33. The Tribunal considered whether the lack of a landlord supplied washing machine and fridge freezer would adversely affect the rental price of the subject property and determined that due to the property location, the size of the house, the quality of accommodation, the parking and garden facilities, that, there would be no detrimental effect.
34. Accordingly, the Tribunal hereby determines a Market Rent of £1,800.00 per calendar month.
35. The tenant made no submissions to the Tribunal in regard to delaying the effective date of the new rent on grounds of hardship. Accordingly, the rent of £1,800.00 will take effect from 6 August 2022, 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 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.