



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

Case Reference : **CHI/40UC/MNR/2015/0088**

Property : **Anfian
Church Road
Moorland
Bridgwater
Somerset
TA7 0AX**

Applicant : **Mr A and Mrs H Dunbar**

Representative : **None**

Respondent : **Mr B Pyne**

Representative : **Sarah Doble Associates**

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 S J Hodges FRICS**

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

Date of Decision : **3rd October 2022**

DECISION

Summary of Decision

1. On 3rd October 2022 the Tribunal determined a market rent of £770 per month to take effect from 1st August 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 Tenants pursuant to sections 13 and 14 Housing Act 1988.
3. On 14th June 2022 the Landlord's Agent served a notice under Section 13(2) of the Housing Act 1988 which proposed a new rent of £795 per month in place of the existing rent of £575 per month to take effect from 1st August 2022. The notice complied with the legal requirements.
4. On 28th July 2022 the Tenants 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 5th August 2022 informing the parties that, unless either party objected, the Tribunal intended to determine the rent based on written representations. The parties were invited to make submissions which could include photographs or videos.
7. Both parties submitted papers which were also copied to the other party.
8. Neither party objected to the matter being determined without an oral hearing, so the Tribunal determined the case based on the written representations received.

The Property

9. From the information given in the papers and available on the internet the property comprises a detached Bungalow with brick elevations beneath a pitched tiled roof overlooking fields situated in the village of Moorland about 5 miles southeast of Bridgwater.
10. The accommodation is described as including a Living Room, Kitchen, Dining Room, Utility Room, three double Bedrooms and a Bathroom. Outside there is a Garage and gardens to front and rear.
11. The accommodation has central heating, windows are double glazed.

Submissions

12. The initial tenancy began on 1st May 1993 at a rent of £300 per calendar month. The last rent increase was in 2017. The tenancy is an assured tenancy by virtue of a Court Order dated 19th June 2019.

13. The Tenants provide carpets, curtains and white goods.
14. The Landlord's Agent accepts that the property is in need of some modernisation and states that the Landlord has carried out its legal duties to ensure the property is compliant with current legislation and that all legally required certificates are obtained.
15. The Tribunal could not find an Energy Performance Certificate for the property
16. The Landlord's Agent provides the Tribunal with evidence of other properties available to rent within the general area for monthly rents between £1,100 per month and £1,300 per month.
17. The Tribunal is also provided with a report from LHR contractors, "mould, condensation and Radon specialists". Further photographs of the property show external timbers need decoration and some relatively minor repair items are needed internally.
18. The Tenants have made a number of improvements to the property including replacement of the kitchen units, replacement of garage door, installation of two new double glazed doors to Utility Room, some external redecoration, some landscaping which includes decking and refitting of Bathroom as a Shower Room.

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 to 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, which included helpful photographs, 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 Tenants are not relevant to this issue.
- 21. Having carefully considered the representations from the parties and associated correspondence and using its own judgement and knowledge of rental values in the Exeter 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 £1,200 per month.

22. This full open market rent needs to be adjusted to reflect the Tenants' improvements, general repair, and Tenants' provision of furnishings and white goods.
23. Using its experience the Tribunal decided that the following adjustments should be made:

Tenants' provision of white goods	£30
Tenants' provision of carpets	£30
Tenants' provision of curtains	£20
Dated kitchen – replaced by Tenants	£100
Dated bathroom- replaced by Tenants	£75
Tenants' improvements including double-glazed doors and utility	£75
Internal damp problems, insulation and general wants of repair	£100
	—————
TOTAL per month	£430

24. The Tenants made no representation that the starting date for the new rent specified in the Landlord's notice would cause the Tenants 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 £770 per month.
26. The Tribunal directed that the new rent of £770 per month should take effect from 1st August 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.