



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

Case Reference : **CHI/00HG/MNR/2022/0089**

Property : **GFF 90 Ladysmith Road, Plymouth, Devon
PL4 7NN**

Applicant : **Mr P and Mrs L Derham (Tenants)**

Respondent : **F and P Fielding (Landlords)**

Date of Application : **24th July 2022**

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

Tribunal : **Mr R T Brown FRICS Chairman
Mr S Hodges FRICS
Mr P Smith BSc FRICS**

Date : **19th October 2022**

REASONS FOR DECISION

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Background

1. The Tribunal gave formal notice of its decision by a Notice dated 19th October 2022 that the rent will be **£500.00 per calendar month (pcm)** with effect from 1st August 2022.
2. By an application dated 24th July 2022, the Tenants 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 28th June 2022 proposed a rent of **£550.00 pcm** with effect from 1st August 2022, in place of the current rent of £450.00 pcm including £60.44 pcm in respect of water charges.
4. The tenancy is an assured shorthold tenancy. The tenancy agreement is in common form and commenced on 1st August 2014. 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 30th 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 a residential area on the eastern side of Plymouth within walking distance of the city centre and in close proximity to bus stops.
8. The property comprises a centrally heated double glazed Ground Floor Flat in a converted terrace house.
9. The accommodation comprises: Living/Dining Room, kitchen, shower room separate w.c. and 2 bedrooms. Outside: shared use of garden. No garage or off street parking.
10. The property is apparently let furnished but no inventory has been provided (a cooker, fridge, washing machine and freezer are identified on the Landlord's Reply Form).
11. The Tribunal assumed that all mains services 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 tenancy commenced in 2012.
 - b) The tenants do not abide by their duty of care. The humidistat was damaged by the tenants causing a build of condensation with consequent damage to decorations as the flat is not properly ventilated.
 - c) A third adult is occupying the flat without our consent.
 - d) New central heating boiler installed in December 2021.
 - e) New bathroom in November 2017.
 - f) New living room carpet January 2020.
16. As to rental value the Landlords say that the proposed rent is well below the market which is at least £700.00 pcm. Details of 2 bedroom properties to let in the PL4 area are included advertised at rents between £680.00 and £900.00pcm.

Tenant's Representations (summarised)

17. The Tenant says in the Application and Reply Forms:
- a) The Landlord's gave consent for Mrs Derham's son to live at the property.
 - b) When the Tenants moved into the property it was in a 'right mess'.
 - c) With the agreement of the Landlords the Tenants decorated the interior. The Landlord paid for the materials.
 - d) The Tenants replaced furniture, sofa, microwave, kettle, toaster and cutlery.
 - e) The surveyors report which includes a photographic record. is dated 27th June 2022 and provides a schedule of work estimated at £12,150.00 plus VAT.
 - f) The report identifies the following disrepair:
Damp: Hall, living room, kitchen and both bedrooms.
Woodwork: ill fitting doors and windows.
Bathroom: damp, walls crumbling, shower base cracked and extractor not working.
Externally: Damp
18. As to the proposed rent the Tenants say the £100.00 increase is not the problem but the state of repair is the issue.

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, nor any dispute between them apart from the rent 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 D expiring 13th April 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 **£800.00 pcm** including water charges.
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 deductions in respect of issues identified:
 - a) General disrepair together non compliance with statute as detailed in the surveyor's report: £200.00
 - b) Dated kitchen and lack of modernisation: £100.00.Total deduction £300.00 pcm
25. Accordingly, the Tribunal determined that the market rent for the subject property is **£500.00 pcm**.
26. The rent will take effect from 1st 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.