



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

Case Reference : **CHI/24UJ/MNR/2022/0092**

Property : **Sherfield Cottage, Main Road, East Boldre,
Brockenhurst Hampshire SO42 7WT**

Applicant : **Mrs O Burch (Tenant)**

Respondent : **Executors of J F Fox c/o Heppenstalls
Solicitors (Landlord)**

Date of Application : **29th 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**

**Typographically corrected on 28th October in accordance with Rule 50 of
The Tribunal (First-tier Tribunal) (Property Chamber) Rules 2013. In
particular:**

**Tenant's name correctly spelt: O. Burch (not Birch)
Paragraph 4 (first sentence): Word 'shorthold' deleted.**

REASONS FOR DECISION

Background

1. The Tribunal gave formal notice of its decision by a Notice dated 19th October 2022 that the rent will be **£570.00 per calendar month (pcm)** with effect from 19th October 2022.
2. By an application dated 29th 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 1st July 2022 proposed a rent of **£850.00 pcm** with effect from 3rd August 2022, in place of the current rent of £425.00 pcm.
4. The tenancy is an assured tenancy. The tenancy commenced on 21st April 1993 initially as an oral agreement which was formalised in common form on 16th October 2001 on the death of the then Landlord. 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 9th August and 29th September 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 rural area on the edge of the New Forest. There is no public transport apart from a bus once a day to and from Lymington during the school term only. There is a local store 2 miles away. The nearest supermarket is 15 miles away.
8. The property comprises a double glazed detached house. Heated by 2 electric storage radiators
9. The accommodation comprises: Entrance Hall, Living Room, Dining Room, Kitchen, Bathroom and 2 Bedrooms. Outside: Garden and off street parking.
10. The property is let unfurnished without floor coverings, curtains, cooker 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 and associated correspondence.
14. Tenant: Application Reply Forms, Notice of Increase, Tenancy Agreement, electrical safety certificate and Energy Performance Certificate.

Landlord's solicitors Representations (summarised):

15. In the Reply Form and attachments:
 - a) The house is generally dated with basic kitchen fittings, electrical and heating services require improvement. The front elevation, particularly, is damp.
16. As to rental value the Landlord's solicitor says they were advised that the current rent would be in the region of £850.00 pcm and if brought up to good order around £1,100.00 pcm for an assured tenancy and £1,300.00 pcm for an assured shorthold tenancy.
17. In support of this figure comparables are referred to, but not analysed, of letting of 2 and 3 bedroom flats and houses in the surrounding area at rents ranging from £800.00 to £1,395.00 pcm.

Tenant's Representations (summarised)

18. The Tenant says in the Application Reply Forms and letter to the Tribunal:
 - a) No improvements have been carried out by the original or the current Landlord.
 - b) There are issues with the double glazing. They were of poor quality when installed.
 - c) The property has always been damp. It is necessary to run dehumidifiers and keep the property ventilated at all times. This leads to more frequent redecoration.
 - d) There is no cavity wall insulation and the loft insulation (installed by the Tenant) needs to be thicker.
 - e) The EPC rating of F is below the legal level for letting.
 - f) The electrical report indicates that the entire system is unsatisfactory.
 - g) Heating consists of 2 storage heaters which are over 30 years old and it is necessary to use oil filled radiators as well. Current electricity costs are £4,244.00 per year and expected to rise to £8,500.00 in October.
 - h) The immersion heater is on a timer but when 1/2 empty fills with cold water. The hot water tank is not insulated.
 - i) The Tenant replaced the gate and posts.
 - j) Carpets were originally provided by the landlord but subsequently replaced by the Tenant.
 - k) The gutters and soffits have not been maintained.
 - l) The bathroom fittings are dated. Damp air from the extractor feeds into the cavity wall not the outside.
 - m) The kitchen fittings are dated (approx. 60 years old). The shelves are bowed and there is damp at the back of the cupboards.
 - n) Access to local amenities is poor. The local shop is expensive and 2 miles away, the nearest supermarket is 15 miles away. The bus only runs during term time.
 - o) The garden was pretty bare when the Tenant moved in and the Tenant invested money in improvements.
19. Photographs of the property dated 4th September 2022 are included in the Reply Form.

20. The Tenant is an assured tenant and there is no comparable evidence of properties let on similar terms.
21. As to the proposed rent the Tenants say that the Landlords comparables are all of much larger properties in better condition and compliant with current regulations. Given the size and condition of the subject property the rent should remain the same at £425.00 pcm.

The Tribunal's Deliberations

22. The Tribunal found as a matter of fact that the notice was a Notice under section 13 as prescribed by Statute.
23. 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.
24. The Tribunal checked the National Energy Performance Register and noted that the subject property has a certificate registering the property at F expiring on 13th April 2032. The legal minimum standard for letting a property is rating E.
25. 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.
26. The Tribunal notes that the Landlord suggest the Tenant is responsible for internal repairs. The Tribunal draws the parties attention to Section 11 of the Landlord and Tenant Act 1985 which covers the Landlord' statutory duties with regard to repairs.
27. 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 **£1,350.00 pcm.**
28. 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 including damp, dangerous wiring and defective windows: £300.00
 - b) Lack of floor coverings and curtains: £30.00
 - c) Lack of white goods: £50.00
 - d) Dated kitchen and bathroom fittings: £100.00
 - e) Inadequate heating: £200.00

- f) Low EPC rating: £50.00
- g) Allowance for Tenant's internal decoration liability (when compared to a modern tenancy common form which would require the Tenant to maintain only fair wear and tear excepted): £50.00

Total deduction £780.00 pcm

- 29. Accordingly, the Tribunal determined that the market rent for the subject property is **£570.00 pcm**.
- 30. The rent will take effect from 3rd August 2022 being the date specified by the landlord in the notice of increase.

Relevant Law

- 31. Sections 13 and 14 of the Housing Act 1988.
- 32. 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.